VOLUME 7

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94th Congress, 2d Session - - - - - - - - - - - - - - - - - - House Document No. 94-661

DESCHLER'S PRECEDENTS

OF THE

United States
House of Representatives

INCLUDING REFERENCES TO PROVISIONS
OF THE CONSTITUTION AND LAWS, AND
TO DECISIONS OF THE COURTS

By
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1928-1974

VOLUME 7

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TABLE OF ABBREVIATIONS AND TERMS

A. (or A.2d)	Atlantic Reporter
ad hoc	For a particular purpose or end
A.L.R.	American Law Reports Annotated
Am Jur	American Jurisprudence
amend.	Amendment to the Constitution
Annals of Cong.	Annals of Congress (1789-1824)
App. D.C.	Appeal Cases, District of Columbia
App. Div.	Appellate Division
art.	Article of the Constitution
C.A.	Court of Appeals
Cert.	Certiorari
cf.	Compare with
CFR	Code of Federal Regulations
Ch.	Chapter
Cir.	Circuit Court of Appeals (federal)
Cir. Ct. App.	Circuit Court of Appeals (state)
cl.	clause
Comm.	Committee
Cong.	Congress
Cong. Deb.	Congressional Debates (1824-1837)
Cong. Globe	Congressional Globe (1833-1873)
Cong. Rec.	Congressional Record
contra	Contradictory authority
Crim. App.	Court of Criminal Appeals
Ct. Cl.	Court of Claims
D.	District Court (federal)
daily ed.	Daily edition of Record
e.g.	For example
et al.	Omission of party in case name
et seq.	And the following
ex rel.	On the relation of . . .
Exec. Comm.	Executive Communication
F (or F2d)	Federal Reporter
FCA	Federal Code Annotated
Fed. Reg.	Federal Register
FRD	Federal Rules Decisions
F Supp	Federal Supplement
H. Con. Res.	House Concurrent Resolution
H. Doc.	House Document
H.J. Res.	House Joint Resolution
H. Jour.	House Journal
H.R.	House Bill
H. Rept.	House Report
H. Res.	House Resolution

TABLE OF ABBREVIATIONS

Id.	Citation to same authority as in immediately preceding citation
i.e.	That is
In re	In the matter of . . .
infra	Subsequent section or chapter
inter alia	Among others
L.Ed (or L. Ed2d)	Lawyers' Edition, U.S. Supreme Court Reports
L.J.	Law Journal
L. Rev.	Law Review
Mem.	Disposition of case without opinion
N.E. (or N.E.2d)	North Eastern Reporter
N.W. (or N.W.2d)	North Western Reporter
Op. Att'y Gen.	Attorney General's Opinions
P. (or P.2d)	Pacific Reporter
Per Curiam	Disposition of case with short opinion
Priv. L.	Private Law
Pub. L.	Uncodified Statute or Session Law
S.	Senate Bill
S. Con. Res.	Senate Concurrent Resolution
S. Ct.	Supreme Court Reporter
S. Doc.	Senate Document
S.E. (or S.E.2d)	South Eastern Reporter
Sess.	Session
Sic	Mistake in original of quoted material
S.J. Res.	Senate Joint Resolution
S. Jour.	Senate Journal
S. Rept.	Senate Report
S. Res.	Senate Resolution
So. (or So.2d)	Southern Reporter
Stat.	Statutes at large
Sup. Ct.	Supreme Court
supra	Prior section or chapter
S.W. (or S.W.2d)	South Western Reporter
U.S.	United States Supreme Court Reports
USC (or USCA)	United States Code (or United States Code Annotated)
U.S. Code Cong. & Ad. News	United States Code Congressional and Administrative News
U.S. Const.	United States Constitution
U.S.L.W.	United States Law Week

CHAPTER 22

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Commentary and editing by David Paul Bird, J.D.

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Calendars

A. INTRODUCTORY

§ 1. Calendars of the House

There are five legislative calendars in the House of Representatives. They are: (1) the Calendar of the Committee of the Whole House on the state of the Union (Union Calendar); (2) the House Calendar; (3) the Calendar of the Committee of the Whole House (Private Calendar); (4) the Consent Calendar; and (5) the Calendar of Motions to Discharge Committees.(1) Rule XIII provides that there shall be three calendars for the reference of bills reported from committees: (1) a Calendar of the Committee of the Whole House on the state of the Union for ". . . bills raising revenue, general appropriation bills, and bills of a public character directly or indirectly appropriating money or property"; (2) a House Calendar for ". . . bills of a public character not raising revenue nor directly or indirectly appropriating money or property"; and (3) a Calendar of the Committee of the Whole House for private bills.(2)

Favorably reported bills are referred to a calendar by the Speaker. Bills adversely reported from a committee are laid on the table unless request is made by the committee at the time or by a Member within three days that they be referred to a calendar.(3) And bills favorably reported and referred to either the House or Union Calendars may be placed on the Consent Calendar under a notice procedure at the request of any Member.(4)

A point of order(5) may be raised that a bill is on the wrong calendar when it is called up for consideration.(6) However, such a point of order comes too late when consideration of a bill in question has begun.(7)

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1. The calling up of motions to discharge committees is treated in Ch. 18, supra.
2. Rule XIII clause 1, *House Rules and Manual* § 742 (1981).
3. Rule XIII clause 2, *House Rules and Manual* § 744 (1981).
4. Rule XIII clause 4, *House Rules and Manual* § 746 (1981).
5. Generally, see Ch. 31, infra.
6. 6 Cannon's Precedents §§ 746, 747.
7. 7 Cannon's Precedents § 856.

When the Speaker directs the transfer of an erroneously referred bill it is transferred to the proper calendar as of the date of its original reference.(8)

Adversely Reported Measures

§ 1.1 Measures adversely reported from a committee are not referred to a calendar unless a request is made that they be referred to a calendar.

On July 15, 1959,(9) Mr. William H. Meyer, of Vermont, asked that House Concurrent Resolutions 245, 246, 247, 248, 249, 251, and 254, which had been reported adversely, be referred to the calendar.

The Speaker(10) ordered the measures referred to the Union Calendar.(11)

Improperly Referred Bills

§ 1.2 When a bill has been erroneously referred to the Union Calendar the Speaker directs its transfer to the proper calendar as of the date it was originally reported from committee.

On Dec. 7, 1950,(12) Mr. Andrew J. Biemiller, of Wisconsin, raised a parliamentary inquiry:

> MR. BIEMILLER: Mr. Speaker, on the 7th of August the bill H.R. 7789, which was reported by the Committee on Interstate and Foreign Commerce, was referred to the Union Calendar. I believe that this was done in error and that the bill should have been referred to the House Calendar.
>
> THE SPEAKER:(13) The Chair has examined the bill and finds that it is not chargeable to the Treasury. Therefore, the reference to the Union Calendar was in error and the bill is now referred to the House Calendar as of the date it was originally reported by the committee.

§ 2. Union and House Calendars

Public bills favorably reported are first referred to either the Union or House Calendars, and those that are not required to be referred to the former are re-

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8. 6 Cannon's Precedents §§ 744–748; see also § 1.2, infra.
9. 105 CONG. REC. 13493, 86th Cong. 1st Sess.
10. Sam Rayburn (Tex.).
11. This procedure was carried out pursuant to Rule XIII clause 2: ". . . bills reported adversely shall be laid on the table, unless the committee reporting a bill, at the time, or any Member within three days thereafter, shall request its reference to the calendar, when it shall be referred, as provided in clause 1 of this rule." *House Rules and Manual* § 744 (1981).
12. 96 CONG. REC. 16307, 81st Cong. 2d Sess.
13. Sam Rayburn (Tex.).

ferred to the latter. Bills appropriating money or property, are referred to the Union Calendar since they must be considered in the Committee of the Whole House on the state of the Union.(14) Thus, measures belonging on the Union Calendar are those on subjects under the jurisdiction of the Committee of the Whole, a discussion of which is found in Chapter 19, supra.

Consideration in House as in Committee of the Whole

§ 2.1 The House has often agreed, by unanimous consent, to consider a Union Calendar bill in the House as in the Committee of the Whole.

On June 28, 1966,(15) the House adopted a special rule (H. Res. 895) for the consideration in the Committee of the Whole House on the state of the Union of a calendared bill (H.R. 5256) changing the method of computing the retirement pay of members of the armed forces. Then Mr. F. Edward Hébert, of Louisiana, asked unanimous consent that that bill be considered in the House as in the Committee of the Whole.

There was no objection.

§ 2.2 Where the House grants unanimous consent for the immediate consideration of a bill on the Union Calendar, the bill is considered in the House as in the Committee of the Whole and debated under the five-minute rule, and motions to strike out the last word are in order.

On Apr. 6, 1966,(16) Mr. Wilbur D. Mills, of Arkansas, asked unanimous consent for the immediate consideration of the bill (H.R. 14224) amending the Social Security Act to extend the initial period for enrolling under the program of supplementary medical insurance benefits for the aged, pending on the Union Calendar.

Mr. John W. Byrnes, of Wisconsin, then raised a parliamentary inquiry:

> MR. BYRNES of Wisconsin: Mr. Speaker, I make this parliamentary inquiry only that the Members might understand what the opportunities might be for discussion. I make the parliamentary inquiry to the effect that if the request of the gentleman from Arkansas is agreed to that the bill can be considered under unanimous-consent request—do I state it correctly that there will be the opportunity for strik-

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(14) Rule XXIII clause 3, *House Rules and Manual* § 865 (1981).

(15) 112 CONG. REC. 14547-49, 89th Cong. 2d Sess.

(16) 112 CONG. REC. 7749, 89th Cong. 2d Sess.

ing out the last word and having an opportunity to speak?

The Speaker:[17] The bill is to be considered in the House as in the Committee of the Whole, and motions to strike out the last word will be in order.

Mr. Byrnes of Wisconsin: Will the gentleman make the request that the bill be considered in the House as in the Committee of the Whole?

The Speaker: The Chair will state that the unanimous-consent request will automatically carry that privilege.

Requests for Immediate Consideration

§ 2.3 The Speaker may recognize a Member to ask for the immediate consideration of an important bill pending on the Union Calendar.

On Apr. 6, 1966,[18] the Speaker[19] made the following statement:

The Speaker: The next order of business is the matters that were passed over from Monday and Tuesday. However, the Chair desires to state that there is a bill out of the Committee on Ways and Means relating to the extension of time for filing for medicare. If there is no objection on the part of the House, the Chair would like to recognize the gentleman from Arkansas [Mr. Mills] to submit a unanimous-consent request to bring this bill up. The Chair also understands it is the intention to have a rollcall on the bill. The Chair is trying to work this out for the benefit of the Members. Is there objection to the Chair recognizing the gentleman from Arkansas [Mr. Mills], for the purpose stated by the Chair? The Chair hears none and recognizes the gentleman from Arkansas [Mr. Mills].

B. CONSENT CALENDAR

§ 3. In General

The Consent Calendar is a device provided for in the rules of the House of Representatives by which noncontroversial bills and resolutions may be granted immediate consideration on the first and third Mondays of each month.

The rule governing the Consent Calendar[1] was adopted on Mar.

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[17] John W. McCormack (Mass.).

[18] 112 Cong. Rec. 7749, 89th Cong. 2d Sess.

[19] John W. McCormack (Mass.).

[1] Rule XIII clause 4, *House Rules and Manual* § 746 (1981).

15, 1909, and amended in 1924, 1925, 1931, and 1932.(2)

§ 4. When in Order

The applicable House rule(3) provides that the Consent Calendar shall be in order on the first and third Mondays of each month. However, the House has agreed to consider it on other days to assure that it will be called when the House will be in session(4) or to dispense with it because of other pressing House business.(5)

Change of Day for Call

§ 4.1 The day for the call of the Consent Calendar is often changed by unanimous consent.

For example, on Mar. 29, 1961,(6) Mr. John W. McCormack, of Massachusetts, asked unanimous consent that the call of the Consent Calendar be made in order on the second Tuesday of the month due to the adjournment of the House for Easter recess.

There was no objection.(7)

Suspension for Other Business

§ 4.2 Calls of Consent and Private Calendars may, by unanimous consent, be dispensed with to facilitate consideration of other business.

On Jan. 31, 1964,(8) Mr. Carl Albert, of Oklahoma, asked unanimous consent that the call of the Consent Calendar on the following Monday and the Private Calendar on the following Tuesday be dispensed with.

In response to a parliamentary inquiry, the Majority Leader announced that the House would continue to consider the Civil Rights Act during this period.

There was no objection.

Change of Day by House Resolution

§ 4.3 The call of the Consent Calendar on a day other than that

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2. A description of the original rule and its subsequent amendments is found in 7 Cannon's Precedents § 972.
3. Rule XIII clause 4, *House Rules and Manual* § 746 (1981).
4. See § 4.1, infra.
5. See § 4.2, infra.
6. 107 Cong. Rec. 5289, 5290, 87th Cong. 1st. Sess.
7. The date has been changed because of the intervention of numerous other holidays. For example: (1) change due to Fourth of July (107 Cong. Rec. 10856, 87th Cong. 1st Sess., June 20, 1961); and (2) change due to Labor Day (109 Cong. Rec. 16159, 88th Cong. 1st Sess., Aug. 28, 1963).
8. 110 Cong. Rec. 1552, 88th Cong. 2d Sess.

specified in Rule XIII clause 4, has been provided for by resolution reported from the Committee on Rules.

On Aug. 31, 1961,(9) Mr. Richard W. Bolling, of Missouri, reported from the Committee on Rules a resolution (H. Res. 444) that the Consent Calandar be in order on the following Wednesday:

> *Resolved,* That the call of the Consent Calendar and consideration of motions to suspend the rules, in order on Monday, September 4, 1961, may be in order on Wednesday, September 6, 1961.

The resolution was agreed to.

§ 5. Calling Measures on the Calendar

Rule XIII clause 4 provides that measures on the Consent Calendar shall be called in numerical order on the first and third Mondays of the month after they have been on the calendar for three legislative days,(10) that a measure will be passed over until the next call when one objection to its consideration is heard, that the measure will be stricken from the calendar when three objections to its consideration are heard on the second call, and that any measure so stricken shall not be restored to the calendar within the same session of a Congress.

However, the House has used the unanimous-consent procedure to bypass some of these requirements and call bills that have not been on the calendar for three legislative days,(11) or which have not been on the Consent Calendar at all, to strike bills from the calendar,(12) to recommit a measure after withdrawal thereof,(13) to restore a measure to the calendar,(14) and to have a measure laid on the table.(15)

Three Legislative Days on Calendar Required

§ 5.1 Bills must be on the Consent Calendar three legislative days in order to be called.

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9. 107 Cong. Rec. 17766, 87th Cong. 1st Sess.

10. The status of bills on the Consent Calendar is not affected by their consideration from another calendar and such bills may be called up for consideration from the Consent Calendar while pending as unfinished business in the House or Committee of the Whole. Rule XIII clause 4, *House Rules and Manual* § 746 (1973).

11. See §§ 5.3, 5.4, infra.

12. See § 5.7, infra.

13. See § 5.8, infra.

14. See §§ 5.9, 5.10, infra.

15. See § 5.12, infra.

On Jan. 18, 1932,(16) during the call of the Consent Calendar, Mr. Scott Leavitt, of Montana, objected that certain measures had not been included. The Speaker quoted an exchange between himself and former Speaker Longworth stating the rule that a measure must be on the calendar for three consecutive legislative days before its consideration would be in order:

> The Speaker:(17) . . . The reasoning of the rule seems to be this: The present occupant of the Chair took the same position that the gentleman from Montana is now taking, and Speaker Longworth, in stating the reasons for his interpretation of the rule, said that the reasons for having bills on the Calendar for three successive legislative days was for the purpose of informing the membership of the House what legislation was likely to come up on Consent Calendar day. In case the House was not in session on Saturday, there was no printed calendar. The result therefore was that the House could not be informed as to the legislation that might come up on the following Consent Calendar day.

Waiver of Objection

§ 5.2 Bills have been called up on the Consent Calendar, with no objection, even though they had not been on the calendar for three legislative days.

On Feb. 4, 1963,(18) at the beginning of the call of the Consent Calendar, Mr. Wayne N. Aspinall, of Colorado, said:

> Under the rules of the House these bills are not eligible at the present time for consideration.
>
> I have no objection to the consideration of the bills, however, because I consider each one of them is in order.

There was no other objection to the consideraton of the bills, and the calendar was called.

Waiver of Objection by Unanimous Consent

§ 5.3 The House has granted consent that certain bills reported by a committee be eligible for consideration on the Consent Calendar although they did not meet the requirement of being on such calendar for three legislative days.

On June 14, 1951,(19) Mr. John E. Rankin, of Mississippi, asked unanimous consent that 13 bills reported by the Committee on Veterans' Affairs be placed on the Consent Calendar for the following Monday even though the measures would not then have been on the calendar for the requisite three legislative days.

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16. 75 Cong. Rec. 2167, 72d Cong. 1st Sess.
17. John N. Garner (Tex.).
18. 109 Cong. Rec. 1630, 88th Cong. 1st Sess.
19. 97 Cong. Rec. 6605, 82d Cong. 1st Sess.

There was no objection.

§ 5.4 Unanimous consent has been granted that, in the call of the Consent Calendar, the rule requiring bills to have been on the calendar three legislative days be waived.

On July 30, 1955,(20) Mr. John W. McCormack, of Massachusetts, asked unanimous consent that during the call of the Consent Calendar on that day the provision of the rule requiring bills to be on that calendar three legislative days in order to be considered be waived.

There was no objection.

Discretion of Speaker

§ 5.5 On Consent Calendar days the Speaker may decline to recognize Members for unanimous consent requests for consideration of bills which have not been on such calendar for three legislative days.

On May 6, 1946,(1) Mr. Overton Brooks, of Louisiana, made a parliamentary inquiry as to whether unanimous consent could be granted to consider a bill that had not been on the calendar for three days.

The Speaker(2) responded that he would not recognize for such a request unless the bill involved an emergency.

Replacing Bill on Calendar in Subsequent Session

§ 5.6 Bills stricken from the Consent Calendar during the first session of a Congress may be replaced on such calendar during the second session.

On Feb. 3, 1936,(3) Mr. Jesse P. Wolcott, of Michigan, made a parliamentary inquiry as to why certain measures were on the Consent Calendar when they had been objected to and stricken during the previous session.

The Chair ruled that the measures were properly on the Consent Calendar. He stated the rule as follows:

THE SPEAKER PRO TEMPORE:(4) The rule is plain. It reads as follows:

> Should objection be made to the consideration of any bill so called it shall be carried over on the calendar without prejudice to the next day when the Consent Calendar is again called, and if objected to by three or more Members it shall immediately be stricken from the calendar and shall not thereafter during the same session of that Congress be placed again thereon.

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20. 101 CONG. REC. 12380, 84th Cong. 1st Sess.

1. 92 CONG. REC. 4527, 79th Cong. 2d Sess.

2. Sam Rayburn (Tex.).

3. 80 CONG. REC. 1389, 74th Cong. 2d Sess.

4. John J. O'Connor (N.Y.).

Striking Bill by Unanimous Consent

§ 5.7 A bill has been stricken from the Consent Calendar by unanimous consent.

On Mar. 21, 1960,(5) Mr. Clement J. Zablocki, of Wisconsin, asked unanimous consent that House Concurrent Resolution 393 (to promote peace through the reduction of armaments) be stricken from the Consent Calendar.

There was no objection.

Bills Restored to Calendar After Recommittal

§ 5.8 A bill withdrawn from the Consent Calendar following one objection and, by unanimous consent, recommitted to the reporting committee, is considered de novo when rereported and replaced on the Consent Calendar, and such bill is carried over until the next call when only one objection to its consideration is again necessary.

On Aug. 6, 1962,(6) Mr. John V. Lindsay, of New York, objected to the consideration on the Consent Calendar of the bill (H.R. 11363) to amend the Internal Security Act.

Mr. Francis E. Walter, of Pennsylvania, made the following parliamentary inquiry:

> MR. WALTER: In view of the fact that this bill was objected to previously, and was rereferred to the committee for the purpose of amplifying the report, that this was done and it was then reinstated on the calendar, are not three objections necessary?
>
> THE SPEAKER:(7) The present bill is on the calendar de novo. It has a new number and a new report. At this stage one objection is all that is necessary.(8)

Restoring Bill by Unanimous Consent

§ 5.9 A bill objected to by three Members and stricken from the Consent Calendar may be restored to such calendar by unanimous consent.

On May 16, 1938,(9) Mr. Jesse P. Wolcott, of Michigan, raised the point of order that it was improper to consider on the Consent Calendar a bill to provide for the establishment of a national monument, since that bill had previously been objected to and stricken from the calendar. The Chair responded:

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5. 106 CONG. REC. 6132, 86th Cong. 2d Sess.
6. 108 CONG. REC. 15610, 15611, 87th Cong. 2d Sess.
7. John W. McCormack (Mass.).
8. See § 8, infra, for a general discussion of the effect of objections to measures called on the Consent Calendar.
9. 83 CONG. REC. 6921, 75th Cong. 3d Sess.

The Speaker:(10) The Chair is informed that the Record will show that on May 3 on motion of Mr. McLean, by unanimous consent, the bill was restored to the Consent Calendar. Under these circumstances the Chair feels, the action having been taken by unanimous consent of the House, that the point of order is not well taken.

Mr. Wolcott: I may say to the Chair that I was not advised that it had been restored by unanimous consent. I withdraw my point of order.

Restoring Bill by Vacating Previous Proceedings

§ 5.10 Proceedings whereby a bill was passed on the Consent Calendar have been, by unanimous consent, vacated and the bill restored to the Consent Calendar.

On Feb. 2, 1960,(11) Mr. H. R. Gross, of Iowa, asked unanimous consent that the proceedings by which the bill (H.R. 8074) to amend the Agricultural Act of 1954 was passed on the Consent Calendar be vacated and the bill be restored to the Consent Calendar.

There was no objection.

§ 5.11 Proceedings where a resolution on the Consent Calendar had been agreed to have been vacated and the measure restored to the calendar and later passed under suspension of the rules.

On Feb. 2, 1960,(12) Mr. Barratt O'Hara, of Illinois, asked unanimous consent that the proceedings whereby House Concurrent Resolution 465 (expressing the indignation of Congress at the recent desecration of houses of worship) was agreed to on the Consent Calendar be vacated. The measure was restored to the calendar and scheduled for vote under suspension of the rules. The resolution was then called up under suspension of the rules and agreed to.

Tabling Measures Called on Calendar

§ 5.12 A joint resolution called on the Consent Calendar was by unanimous consent laid on the table, an identical Senate measure having passed the House several days before.

On Dec. 17, 1963,(13) Mr. Emanuel Celler, of New York, asked unanimous consent that a joint resolution (H.J. Res. 852) to authorize subpena power for the Commission on the Assassination of President John F. Kennedy called on the Consent Calendar be

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10. William B. Bankhead (Ala.).
11. 106 Cong. Rec. 1782, 1784, 86th Cong. 2d Sess.
12. 106 Cong. Rec. 1784, 1809, 1816, 1817, 86th Cong. 2d Sess.
13. 109 Cong. Rec. 24788, 88th Cong. 1st Sess.

tabled since an identical Senate measure had passed the House several days before.

There was no objection.

§ 6. Precedence Over Other House Business

The Consent Calendar is called on the first and third Mondays immediately after approval of the Journal.[14] It takes precedence over motions to resolve into Committee of the Whole for consideration of revenue and appropriation bills,[15] contested election cases,[16] and unfinished business on which the previous question was pending at adjournment on the previous day.[17]

The calendar yields to reports from the Committee on Rules,[18] questions of privilege,[19] and resolutions of inquiry.[20]

Precedence Over Unfinished Business

§ 6.1 The calling of the Consent Calendar on the first and third Mondays of the month has precedence over unfinished business coming over from the previous day on which the previous question was ordered.[1]

On Mar. 17, 1934,[2] during consideration of the cotton control bill (H.R. 8402), Mr. Joseph W. Byrns, of Tennessee, raised the following parliamentary inquiry:

> MR. BYRNS: Suppose this bill should reach the previous-question stage today and a roll call be ordered, would the roll call be in order at 12 o'clock on Monday?
>
> THE SPEAKER:[3] The Chair reads from Cannon's Procedure, referring to the call of the Consent Calendar on Monday, which includes suspensions:
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>> It (the calling of the Consent Calendar) also has precedence of contested-election cases and unfinished business coming over from the previ-

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[14] Rule XIII clause 4, *House Rules and Manual* § 746 (1981).

[15] 7 Cannon's Precedents § 986.

[16] 7 Cannon's Precedents § 988.

[17] See § 6.1, infra.

[18] 59 CONG. REC. 598, 66th Cong. 2d Sess., Dec. 15, 1919.

[19] 6 Cannon's Precedents § 553.

[20] 6 Cannon's Precedents § 409.

[1] Business under consideration on "consent day" and undisposed of at adjournment does not come up as unfinished business on the following legislative day but goes over to the next day when that class of business is again in order. 7 Cannon's Precedents § 1005.

[2] 78 CONG. REC. 4721, 73d Cong. 2d Sess.

[3] Henry T. Rainey (Ill.).

> ous day with the previous question ordered. . . .
>
> MR. [JOHN J.] O'CONNOR [of New York]: Mr. Speaker, I understand that the question just read is based on a decision by Mr. Speaker Gillett reported in Hinds' Precedents. Mr. Gillett's decision does not go as far as that. What Mr. Speaker Gillett held was that it was discretionary, and that the vote was of equal privilege with the calling of the Consent Calendar, and therefore it would be in the discretion of the Speaker.
>
> THE SPEAKER: Since the rule is mandatory, we would have to go ahead with the consideration of the Consent Calendar.(4)

Precedence of Conference Report

§ 6.2 Consideration of conference reports may take precedence over the calling of the Consent Calendar.

On Nov. 30, 1945,(5) Mr. Clarence Cannon, of Missouri, and Mr. John W. McCormack, of Massachusetts, asked unanimous consent that consideration of a conference report take precedence over the call of the Consent Calendar on the following Monday. The Chair ruled:

> THE SPEAKER:(6) It is not necessary to obtain unanimous consent for that. The Chair can recognize the gentleman to call up the conference report before the call of the Consent Calendar and will do so.

Superseding Calendar by Unanimous Consent

§ 6.3 A unanimous-consent agreement providing for a special order of business may supersede the call of the Consent Calendar.

On Mar. 4, 1957,(7) the House granted unanimous consent that Mr. Frederic R. Coudert, Jr., of New York, address the House for one hour to commemorate the 168th anniversary of the Congress. Mr. Wayne N. Aspinall, of Colorado, raised a parliamentary inquiry as to whether the Consent Calendar was the proper business before the House. The Chair responded:

> THE SPEAKER:(8) Not before this recognition. This was made the special order of business at this time.(9)

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4. But see 7 Cannon's Precedents § 990 for a ruling by Speaker Frederick H. Gillett (Mass.) that a vote on a matter on which the previous question is ordered and the call of the Consent Calendar are both privileged on the day for the call of the Consent Calendar.
5. 91 CONG. REC. 11279, 79th Cong. 1st Sess.
6. Sam Rayburn (Tex.).
7. 103 CONG. REC. 2753, 85th Cong. 1st Sess.
8. Sam Rayburn (Tex.).
9. Compare 7 Cannon's Precedents § 978, indicating that the Speaker may decline to recognize a request for unanimous consent to call other

§ 7. Measures Qualified for the Calendar

Measures on the Consent Calendar are first referred to the Union or House Calendars.(10) A private bill does not qualify.(11) To qualify, a measure must involve a legislative proposition,(12) and, generally, must meet the criteria established by the official objectors.(13)

Bills Relating to Citizens of Foreign Government

§ 7.1 Bills providing for payment of money to a foreign government for the purpose of indemnifying its citizens for injuries are public bills and are properly referred to the Consent Calendar.

On Feb. 1, 1937,(14) Mr. Jesse P. Wolcott, of Michigan, directed a parliamentary inquiry as to why certain measures were on the Consent Calendar rather than the Private Calendar since they provided for payments to a foreign country on behalf of citizens of that country. The Speaker ruled as follows:

> The Speaker:(15) In answer to the question of the gentleman from Michigan, the Chair is of the opinion that the bills to which the gentleman refers are properly on the Consent Calendar under the rules of the House. The gentleman will note that these bills provide for the payment of moneys to a foreign government; and, under the rules, they are public bills and properly on the Consent Calendar.

§ 7.2 A bill which authorizes the payment of an idemnity to another government on account of losses sustained by a subject of that government, is not a private bill, and is, therefore, properly on the Consent Calendar.

On June 25, 1930,(16) Mr. Fiorello H. LaGuardia, of New York, made the point of order that a bill (H.R. 9702) on the Consent Calendar authorizing payment to the British Government on behalf of H. W. Bennett belonged to the Private Calendar. The Chair responded:

> The Speaker Pro Tempore:(17) The gentleman from New York makes the point of order that this bill is not in order on the Consent Calendar. This bill authorizes the payment of an in-

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business when the Consent Calendar is in order.

10. See § 1, supra.
11. See § 7.3, infra.
12. 7 Cannon's Precedents §§ 980–982.
13. See § 7.4, infra.
14. 81 Cong. Rec. 649, 75th Cong. 1st Sess.
15. William B. Bankhead (Ala.).
16. 72 Cong. Rec. 11728, 71st Cong. 2d Sess.
17. Robert Luce (Mass.).

demnity to the British Government. The Chair overrules the point of order.

Bills Applicable to a Class

§ 7.3 A bill that specifies individuals or entities qualifies for the Private Calendar; but where a bill applies to a class and not to individuals as such, it then becomes a general bill and is entitled to a place on the Consent Calendar.

On Mar. 17, 1930,(18) Mr. William H. Stafford, of Wisconsin, raised a point of order concerning the consideration of a bill "For the relief of certain newspapers for advertising services rendered the Public Health Service of the Treasury Department" on the grounds that the bill belonged on the Private Calendar and not the Consent Calendar. The Chair ruled:

> THE SPEAKER PRO TEMPORE:(19) . . . Where a bill affects an individual, individuals, corporations, institutions, and so forth, it should and does go to the Private Calendar. Where it applies to a class and not to individuals as such, it then becomes a general bill and would be entitled to a place on the Consent Calendar. In the judgment of the Chair this bill, while affecting a class of concerns, specifies individuals, and for the purposes of the rule the Chair holds that the bill is improperly on this calendar and transfers it as of the date of the original reference to the Private Calendar.

Official Objectors' Criteria

§ 7.4 Special criteria which measures must satisfy in order to qualify for placement on the Consent Calendar are provided by the Consent Calendar objectors.(20)

On Mar. 17, 1969,(1) Mr. Wayne N. Aspinall, of Colorado, introduced into the Record a written statement signed by both majority objectors and minority objectors for the Consent Calendar setting forth certain criteria a measure should satisfy in order to qualify for the calendar. The statement declared that to qualify a bill must (1) involve an aggregate cost

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18. 72 CONG. REC. 1526, 71st Cong. 2d Sess.

19. Earl C. Michener (Mich.).

20. Generally, the leadership of both parties appoints objectors' committees at the beginning of the Congress to screen measures on the Consent Calendar. Such committees are generally composed of three Members from each party. See, for example, 113 CONG. REC. 3509, 90th Cong. 1st Sess., Feb. 16, 1967.

1. 115 CONG. REC. 6543, 6544, 91st Cong. 1st Sess. For announcement of similar statements in other Congresses see: (1) 111 CONG. REC. 3842, 3843, 89th Cong. 1st Sess., Mar. 1, 1965; (2) 107 CONG. REC. 5661, 87th Cong. 1st Sess., Apr. 12, 1961; and (3) 105 CONG. REC. 2858, 86th Cong. 1st Sess., Feb. 24, 1959.

of less than $1 million; (2) include no change in national or international policy; (3) be not of general application (or of interest to districts of more than a majority of the Members); or, if of wide application, the Members should be fully informed and the bill cleared by the leadership on both sides of the aisle; and (4) a Bureau of the Budget report must have been made on the bill.

§ 8. Objection to or Passing Over Measures on the Calendar

The leadership of each party will ordinarily appoint official objectors at the beginning of each Congress to screen measures on the Consent Calendar to determine whether or not they are properly placed thereon. They may interpose an objection whenever a measure fails to meet the announced criteria that it must satisfy in order to be called on a Consent Calendar day.(2) Objection may also be raised to such a measure by one or more Members under the Consent Calendar rule. It provides that the first time a measure is called on the Consent Calendar only one objection is required to prevent its consideration. The measure is then called on the next calendar day and will be considered for debate and passage unless three or more Members object. If three Members then object, the measure is stricken from the calendar.(3)

Objection to the consideration of a measure comes too late when debate has begun.(4) However, a Member may reserve the right to object and proceed to debate the measure.(5) And the unanimous-consent procedure has been used to pass over a measure without prejudice(6) and to restore a measure to the calendar.(7)

Timeliness of Objections

§ 8.1 An objection to the consideration of a bill on the Consent Calendar comes too late after an amendment to the bill has been offered and debated.

On Aug. 7, 1961,(8) Mr. L. Mendel Rivers, of South Carolina, asked that the bill (H.R. 7913), to bring the number of cadets at the U.S. Military Academy and the U.S. Air Force Academy up to full strength, be passed over without prejudice. His request came while the bill was being considered and after an amendment thereto had been offered.

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(2) See § 7.4, supra, as to Consent Calendar criteria.

(3) See Rule XIII clause 4, *House Rules and Manual* § 746 (1981).

(4) See §§ 8.1 et seq., infra. Also see 7 Cannon's Precedents § 998.

(5) See § 8.4, infra.

(6) See § 8.6, infra.

(7) See § 5.9, supra.

(8) 107 CONG. REC. 14738, 14739, 87th Cong. 1st Sess.

The Speaker pro tempore(9) ruled that the objection came too late, the question on the floor being the amendment to the bill, not whether it should be considered.

§ 8.2 Objections to the consideration of a bill on the Consent Calendar come too late after the bill and amendments have been read and the pending question is on the passage of the bill.

On Aug. 31, 1959,(10) Mr. Thomas B. Curtis, of Missouri, raised a parliamentary inquiry as to whether three objections could be heard to a bill (H.R. 2247) conveying certain real property of the United States. The Speaker pro tempore(11) ruled that such objections could not be heard since the time therefor had passed, amendments had been read and the pending question was on the passage of the bill itself.

§ 8.3 An objection to passing over a bill without prejudice on the Consent Calendar comes too late after consideration of the next bill has begun.

On Jan. 16, 1956,(12) Mr. Francis E. Walter, of Pennsylvania, objected to a unanimous-consent request to pass over a bill without prejudice, after such unanimous consent had been granted and consideration of the next bill had begun.

The Speaker(13) ruled that such objection came too late and was of no effect.

Reservation of Objection

§ 8.4 When the Chair inquires whether there is objection to consideration of a bill on the Consent Calendar, any Member may reserve the right to object and thus secure time for debate. However, any Member may demand the regular order and thus require that the objection be exercised or withdrawn.

On Apr. 4, 1932,(14) Mr. William H. Stafford, of Wisconsin, addressed a parliamentary inquiry as to the effect of a reservation of the right to object to a measure on the Consent Calendar.

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(9) Carl Albert (Okla.).

(10) 105 Cong. Rec. 17404, 17405, 86th Cong. 1st Sess.

(11) Frank N. Ikard (Tex).

(12) 102 Cong. Rec. 593, 84th Cong. 2d Sess.

(13) Sam Rayburn (Tex.).

(14) 75 Cong. Rec. 7412, 72d Cong. 1st Sess.

Mr. Stafford: Mr. Speaker, I wish to inquire whether when a bill has been objected to and is again on the Consent Calendar and the bill is called is it permissible to reserve objection, or is it necessary to object forthwith? . . .

The Speaker:(15) Objection can be reserved and the bill discussed for three hours, or more if the House would permit it, and whenever any gentleman calls for the regular order then the Member must object or else withdraw his objection.

Mr. Stafford: Then if three Members reserve the right to object, that will meet the requirements of the objection stage until the regular order is demanded?

The Speaker: It is the Chair's understanding of the rule that any one Member can reserve the right to object and as long as the House permits him to discuss the matter he may continue. That is within the control of the membership of the House.

Objection by the Speaker

§ 8.5 The Speaker has objected to the consideration of a bill on the Consent Calendar.

On July 16, 1946,(16) the Speaker(17) from the chair objected to the consideration of a bill on the Consent Calendar (H.R. 3129) to amend the Securities Exchange Act to limit the power of the Securities Exchange Commission to regulate transactions in exempted securities, such bill having been passed over the first time it was called on the Consent Calendar.

Passing Over Without Prejudice

§ 8.6 Offical objectors may ask unanimous consent to pass over a measure without prejudice(18) when in their opinion time is

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15. John N. Garner (Tex.).

16. 92 Cong. Rec. 9095, 79th Cong. 2d Sess.

17. Sam Rayburn (Tex.).

18. Rule XIII clause 4, *House Rules and Manual* (1981), provides that the first time a measure is called on the Consent Calendar and objection is heard ". . . to the consideration of any bill so called it shall be carried over on the calendar without prejudice to the next day when the 'Consent Calendar' is again called. . . ." The term "without prejudice" in the rule means merely that a measure will remain on the calendar until the next call of the calendar. However, the term "without prejudice" as used by the official objectors means that the measure will be treated as though it had not been called the first time, so that only one objection would be required to prevent consideration the next time the measure is called on the Consent Calendar. See 7 Cannon's Precedents § 1000.

needed to apprise all Members as to the status of the measure.

On Mar. 15, 1955,(1) during the call of the Consent Calendar of the joint resolution (H.J. Res. 107) to release United States reversionary rights to school land in California, Mr. Paul Cunningham, of Iowa, made the following remarks:

> . . . [T]he Members of the Consent Calendar objectors committee are not here to obstruct the passage of the legislation nor to interfere with the proper consideration or passage of the bill of any Member. On the contrary, our purpose is, in addition to what the gentleman from North Carolina has already said, to expedite the passage of legislation, at the same time protecting Members from having bills passed by unanimous consent that should not be passed by unanimous consent. . . . Therefore, we have at times asked unanimous consent to pass over bills without prejudice when we were not opposed to the bill at all and would personally vote for it if it came up under a rule. However, the Members of the objectors committee feel that time should be given so that all of the Members of the House can be fully apprised of what is happening or what may happen.(2)

§ 8.7 A bill called on the Consent Calendar has been passed over without prejudice at the Speaker's request.

On Apr. 4, 1966,(3) at the call on the Consent Calendar of the resolution (H.J. Res. 837) to authorize the President to proclaim State and Municipal Bond Week, the Speaker(4) asked that the resolution be passed over without prejudice. There was no objection.

§ 9. Debate; Amendment of Measures

Consideration as in Committee of the Whole

§ 9.1 Parliamentarian's Note: Bills (and amendments thereto) on the Consent Calendar (if also pending on the Union Calendar) are considered in the House as in the Committee of the Whole under the five-minute rule (§§ 9.3, 9.4, infra). However, where a bill is on the House Calendar and is considered on the Consent Calendar, or where a Union Calendar bill or any bill requiring consideration in Committee of the Whole is considered by unani-

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1. 101 CONG. REC. 2931, 84th Cong. 1st Sess.
2. For a similar statement of the purpose of passing over without prejudice see the remarks of Mr. Wayne N. Aspinall (Colo.) at 103 CONG. REC. 2249, 85th Cong. 1st Sess., Feb. 19, 1957.
3. 112 CONG. REC. 7482, 89th Cong. 2d Sess.
4. John W. McCormack (Mass.).

mous consent and the request includes a stipulation that the bill be considered in the House, it is considered under the "hour rule" and no amendments are in order except by the Member calling up the bill or unless the previous question is rejected.

§ 9.2 Where the House, during the call of the Consent Calendar, grants unanimous consent for the immediate consideration of a Union Calendar bill it is considered in the House as in Committee of the Whole, and any Member may offer a germane amendment.

On Aug. 3, 1970,(5) during the call on the Consent Calendar of the bill (H.R. 9804), to authorize the construction of supplemental irrigation facilities for an irrigation district, Mr. John P. Saylor, of Pennsylvania, raised a parliamentary inquiry as to whether it would be in order to offer an amendment to the bill.

The Chair responded:

> THE SPEAKER:(6) If the bill comes up by unanimous consent, an amendment would be in order because the bill then would be before the House [as in Committee of the Whole] for consideration.

Scope of Debate

§ 9.3 In the consideration of bills on the Consent Calendar there may be debate under the five-minute rule, but such debate must be confined to the bill.

On May 3, 1948,(7) during consideration of a bill (S. 1545) for the construction of a bridge and roads in Colonial National Historical Park, Yorktown, Va., the debate strayed to partisan national issues. On objection, the Chair(8) ruled that such debate was out of order, but allowed such debate to continue by unanimous consent for a limited period.

Application of Five-minute Rule

§ 9.4 Debate on an amendment to a bill on the Consent Calendar is under the five-minute rule.

On July 30, 1955,(9) during consideration of the bill on the Consent Calendar (H.R. 6857) to authorize the conveyance of certain land to the city of Milwaukee, Wis., Mr. Clare E. Hoffman, of Michigan, offered an amendment. The Speaker(10) recognized the gentleman for five minutes in support of his amendment.

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(5) 116 CONG. REC. 26981, 91st Cong. 2d Sess.

(6) John W. McCormack (Mass.).

(7) 94 CONG. REC. 5198, 80th Cong. 2d Sess.

(8) Joseph W. Martin, Jr. (Mass.).

(9) 101 CONG. REC. 12408, 12409, 84th Cong. 1st Sess.

(10) Sam Rayburn (Tex.).

Offering Amendments

§ 9.5 Unanimous consent is not required to offer an amendment to a Union Calendar bill on the Consent Calendar which is being considered by unanimous consent in the House as in the Committee of the Whole under the five-minute rule.

On Aug. 3, 1970,(11) during consideration on the Consent Calendar of the bill (H.R. 9804), to authorize the construction of certain irrigation facilities, Mr. John P. Saylor, of Pennsylvania, announced his intention to offer an amendment.

Mr. Harold T. Johnson, of California, then raised a parliamentary inquiry as to whether Mr. Saylor must obtain unanimous consent to offer his amendment.

The Chair responded as follows:

> THE SPEAKER:(12) The Chair will state that if unanimous consent is granted for the consideration of the House bill . . . then the matter would be before the House [as in Committee of the Whole] under the five-minute rule.

Advance Notice of Amendments

§ 9.6 In considering bills on the Consent Calendar, it is the practice of those Members desiring to offer material amendments to give notice of their intentions before consent is granted for the consideration of the measure.

On Feb. 1, 1932,(13) during consideration of a bill to expand McKinley National Park, Mr. James Wickersham, the Delegate from Alaska, offered an amendment that was objected to on the grounds that no prior notice of the amendment had been given. The Chair made the following statement:

> THE SPEAKER:(14) The Chair will make this statement: It has been customary for gentlemen asking unanimous consent for the consideration of a bill to give notice to the House if they propose to offer a material amendment so that the House may have knowledge of the amendment and give consent to the consideration of the amendment as well as to the bill; otherwise a bill could be called up and amendments could be offered which would be very material and far-reaching in their nature. The Chair thinks that notice should be given before consent is given for the consideration of a bill, that amendments will be proposed, so that

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11. 116 CONG. REC. 26982, 91st Cong. 2d Sess.
12. John W. McCormack (Mass.).
13. 75 CONG. REC. 1610, 72d Cong. 1st Sess.
14. John N. Garner (Tex.).

the membership of the House may have knowledge of what is coming up.

So the Chair suggests to the Delegate from Alaska that he either withdraw his amendment or allow the bill to go over so that the matter may be considered on the next consent day.

Recommitting Amended Bill

§ 9.7 A bill on the Consent Calendar, having been considered and amended, was by motion recommitted to committee.

On Apr. 4, 1949,(15) during consideration of a bill (H.R. 1823) on the Consent Calendar to establish a Women's Reserve as a branch of the Coast Guard Reserve, Mr. Vito Marcantonio, of New York, offered an amendment to prohibit segregation or discrimination in such reserve.

The amendment was agreed to.

Mr. Herbert C. Bonner, of North Carolina, offered a motion to recommit the bill.

The motion was agreed to.

Striking Enacting Clause

§ 9.8 The enacting clause of a bill on the Consent Calendar was stricken after consideration had been granted to such bill.

On Dec. 19, 1932,(16) Mr. Fiorello H. LaGuardia, of New York, moved, after the time for objection had passed, that the enacting clause be stricken from a bill on the Consent Calendar providing for the construction of a bridge over the Mississippi River.

The motion was agreed to.

Raising Point of Order

§ 9.9 A point of order that a committee report on a bill does not comply with the Ramseyer rule(17) will not lie when such bill is called on the Consent Calendar until consideration of such bill is granted.

On Dec. 15, 1941,(18) Mr. John J. Cochran, of Missouri, made the point of order during the call for objections that the bill (H.R. 4648), for the construction of water conservation projects, did not comply with the Ramseyer rule.

The Chair replied:

> THE SPEAKER PRO TEMPORE:(19) The gentleman's point of order is premature, inasmuch as the bill is not now before the House for consideration. The Chair overrules the point of order.

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15. 95 CONG. REC. 3806, 3807, 81st Cong. 1st Sess.
16. 76 CONG. REC. 695, 696, 72d Cong. 2d Sess.
17. Rule XIII clause 3, *House Rules and Manual* § 745 (1981).
18. 87 CONG. REC. 9799, 9800, 77th Cong. 1st Sess.
19. William M. Whittington (Miss.).

C. PRIVATE CALENDAR; PRIVATE BILLS

§ 10. In General

Taken up here are the procedures involved in the consideration and passage of private bills. The nature and form of private bills as legislation are treated in Chapter 24, infra.

Where a bill affects an individual, individuals, corporations, institutions, and so forth, it should and does go to the Private Calendar. Where it applies to a class and not to individuals as such, it then becomes a general bill and would be entitled to a place on the Consent Calendar. See § 7.3, supra.

§ 11. Calling Up

The Private Calendar is called on the first and third Tuesdays of the month. It is mandatory on the first Tuesday and discretionary with the Speaker on the third Tuesday.(20)

Individual private bills have been considered at other times by special order or by unanimous consent.(1) The call of the Private Calendar itself has by unanimous consent been transferred to other days(2) or dispensed with altogether due to other pressing House business.(3)

Omnibus private bills are numerous private bills grouped together under one bill number for consideration and passage and resolved into individual bills for presentation to the President or transmittal to the Senate. They have precedence on the third Tuesday, and are not in order on the first Tuesday.(4)

Under the rule the Private Calendar is called on the first and third Tuesdays ". . . after the disposal of such business on the Speaker's table as requires reference only. . . ."(5) However, the House has agreed by unanimous consent to consider business other than referrals before the Private Calendar is called at its regular time.(6)

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20. See Rule XXIV clause 6, *House Rules and Manual* § 893 (1981).
1. See §§ 11.5, 11.7, infra.
2. See § 11.8, infra.
3. The Private Calendar was dispensed with during the week of consideration of the Civil Rights Act of 1963. 110 Cong. Rec. 1552, 88th Cong. 2d Sess., Jan. 31, 1964.
4. See §§ 11.1, 11.2, infra.
5. Rule XXIV clause 6, *House Rules and Manual* § 893 (1981).
6. See §§ 11.11, 11.12, infra.

Forms

Form of resolution providing for the consideration of the Private Calendar at an evening session.

H. Res. 364

Resolved, That on Friday, January 27, 1933, it shall be in order to move that the House take a recess until 8 o'clock p.m., and that at the evening session until 10:30 p.m. it shall be in order to consider bills on the Private Calendar unobjected to in the House as in Committee of the Whole. The call of bills on said calendar to begin at No. 536.(7)

Time for Consideration of Private Bills

§ 11.1 The consideration of Private Calendar bills on the first Tuesday of the month is mandatory unless the House by a two-thirds vote dispenses with such business, and the rule has been interpreted to prohibit the consideration of omnibus bills on that day.

On June 18, 1935,(8) before the consideration of the bill (H.R. 8492) to amend the Agricultural Adjustment Act, Mr. Thomas L. Blanton, of Texas, raised a parliamentary inquiry as to whether certain bills on the Private Calendar would be in order.

The Speaker:(9) . . . The Chair may say in explanation of the statement made a while ago and in further amplification of that statement that the first section of the rule which applies to the first Tuesday in the month does not include omnibus bills. It provides that on the first Tuesday of the month the Speaker shall direct the calling of the Private Calendar, and the rule cannot be dispensed with except by a two-thirds vote of the House. The second paragraph, which covers the third Tuesday in the month, provides that the Speaker may direct the calling of the Private Calendar, and there is no provision to the effect it shall not be dispensed with.

§ 11.2 Omnibus private bills may not be considered on the first Tuesday of the month other than by unanimous consent.

On Feb. 3, 1936,(10) Mr. John J. Cochran, of Missouri, raised a parliamentary inquiry:

Mr. Cochran: Mr. Speaker, I received notice from the Whip this morning to the effect that bills on the Private Calendar would be called tomorrow. Does that mean that an omnibus claim bill may be called up tomorrow? . . .

The Speaker:(11) The House may by unanimous consent agree to the consid-

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7. 76 Cong. Rec. 2328, 72d Cong. 2d Sess.
8. 79 Cong. Rec. 9548, 9549, 74th Cong. 1st Sess.
9. Joseph W. Byrns (Tenn.).
10. 80 Cong. Rec. 1377, 74th Cong. 2d Sess.
11. Joseph W. Byrns (Tenn.).

eration of such a bill, but . . . omnibus bills may not be considered unless unanimous consent is given. Only individual bills on the Private Calendar may be considered tomorrow.

Precedence of Omnibus Bills

§ 11.3 Consideration of omnibus private bills on the third Tuesday of the month is discretionary with the Speaker inasmuch as under the rules such business does not take precedence over other privileged business of the House.

On Apr. 20, 1937,(12) Mr. Samuel Dickstein, of New York, raised a parliamentary inquiry:

> MR. DICKSTEIN: Mr. Speaker, this is the [third Tuesday] day on which omnibus bills on the Private Calendar could be taken up. I thought this would be the appropriate day to bring before the House the omnibus bill that has been reported by our committee for the consideration of the House. I understand that under the rule it is not mandatory.

The Speaker(13) responded, citing a decision of Speaker Byrns, that the call of the Private Calendar on the third Tuesday of the month is discretionary with the Speaker under the rule:

> . . . This question was raised when the late lamented Speaker Byrns was in the chair, and he gave the following construction to the provision of the rule which the Chair has just read,(14) as appears in the Congressional Record of June 18, 1935, Seventy-fourth Congress, first session:
>
> > The consideration of private bills on the third Tuesday of the month is discretionary with the Speaker, inasmuch as under the rules such business does not take precedence over other privileged business of the House.(15)

§ 11.4 Where the Speaker in his discretion directs the Clerk to call the Private Calendar on the third Tuesday of the month, omnibus bills on the calendar are called before individual bills thereon.

On Feb. 17, 1970,(16) the House considered and passed the omnibus private bill (H.R. 15062) for the relief of sundry claimants.

The Speaker pro tempore then directed the Clerk to call the first individual bill on the Private Calendar.(17)

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12. 81 CONG. REC. 3645, 75th Cong. 1st Sess.
13. William B. Bankhead (Ala.).
14. Rule XXIV clause 6, paragraph 2.
15. 79 CONG. REC. 9548, 74th Cong. 1st Sess., June 18, 1935.
16. 116 CONG. REC. 3605–13, 91st Cong. 2d Sess.
17. "On the third Tuesday of each month . . . the Speaker may direct the Clerk to call the bills and resolutions on the Private Calendar, preference to be given to omnibus bills containing bills or resolutions which have previously been objected to on a call of the Private Calendar. . . ." Rule XXIV clause 6, *House Rules and Manual* § 893 (1981).

Consideration by Special Order

§ 11.5 The House may provide for the consideration of a private bill in the Committee of the Whole pursuant to a special order.

On Aug. 13, 1940,(18) the House considered and agreed to House Resolution 407 providing for the immediate consideration in the Committee of the Whole of a private bill (H.R. 7230) authorizing an appeal to the Supreme Court from a decision of the Court of Claims. The resolution further provided for the reporting of such bill to the House with any amendments. The bill itself was later defeated in the House—ayes 60, noes 115.(19)

§ 11.6 Pursuant to a special order from the Rules Committee, the House may provide for the consideration of a private bill in the Committee of the Whole and for the reporting of such bill to the House with any amendments.

On June 13, 1940,(20) the House considered and agreed to the following resolution:

House Resolution 511

Resolved, That immediately upon adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for consideration of H.R. 9766, a bill to authorize the deportation of Harry Renton Bridges. That after general debate, which shall be confined to the bill and shall continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Immigration and Naturalization, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Consideration of Private Bill Before Call of Calendar

§ 11.7 By unanimous consent a bill on the Private Calendar was brought up and passed just prior to the call of that calendar.

On Aug. 3, 1965,(1) before the call of the Private Calendar, Mr. George F. Senner, Jr., of Arizona, asked unanimous consent for the immediate consideration of the private bill (S. 618) for the relief of Nora Isabella Samuelli. There was no objection to Mr. Senner's request.

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(18) 86 Cong. Rec. 10258-74, 76th Cong. 3d Sess.

(19) *Id.* at p. 10282.

(20) 86 Cong. Rec. 8181, 76th Cong. 3d Sess.

(1) 111 Cong. Rec. 19202-05, 89th Cong. 1st Sess.

Call of Calendar Transferred to Another Day

§ 11.8 The call of the Consent and Private Calendars was by unanimous consent made in order on the second Tuesday of the month due to the adjournment of the House for Easter recess.

The Private Calendar is frequently made in order on days other than that specified in the rules by special order of the House. For example, on Mar. 29, 1961,(2) Mr. John W. McCormack, of Massachusetts, asked unanimous consent that on Tuesday, Apr. 11, 1961, it be in order to consider business on the Consent Calendar and the Private Calendar.

There was no objection.(3)

Consideration on District Monday

§ 11.9 It is in order on District Monday for the Committee on the District of Columbia to call up bills on the Private Calendar that have been reported by that committee.

On May 26, 1930,(4) it being District of Columbia Day, Mr. Clarence J. McLeod, of Michigan, asked unanimous consent to take up the bill on the Private Calendar (H.R. 3048) to exempt from taxation certain property of the National Society of the Sons of the American Revolution in the District of Columbia.

Mr. William H. Stafford, of Wisconsin, reserved the right to object and noted that this being a Private Calendar bill it was not in order at that time. The Speaker pro tempore(5) responded that the measure was in order at that time and cited 4 Hinds' Precedents § 3310, holding that on District of Columbia Day a motion is in order to go into Committee of the Whole House to consider a private bill reported by the Committee on the District of Columbia.

Consideration on Calendar Wednesday

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2. 107 Cong. Rec. 5289, 5290, 87th Cong. 1st Sess.

3. The transfer of call of the Private Calendar to other days has been effected for numerous other reasons. For example: (1) Fourth of July recess, 109 Cong. Rec. 11774, 88th Cong. 1st Sess., June 26, 1963; (2) before expected adjournment *sine die,* 113 Cong. Rec. 25952, 25953, 90th Cong. 1st Sess., Dec. 12 1967; and (3) death of a Member, 110 Cong. Rec. 5, 88th Cong. 2d Sess., Jan. 7, 1964.

4. 73 Cong. Rec. 9607, 71st Cong. 2d Sess.

5. Carl R. Chindblom (Ill.).

§ 11.10 Private bills are not eligible for consideration on Calendar Wednesday.

On June 5, 1940,[6] during consideration of Calendar Wednesday business, Mr. John Lesinski, of Michigan, called up a bill (H.R. 9766) to authorize the deportation of an individual. The Chair ruled:

> THE SPEAKER:[7] . . . There is no question about bills that may and may not be called up on Calendar Wednesday. The rules specifically provide that on a call of committees under this rule bills may be called up from either the House or the Union Calendars except bills which are privileged under the rules.[8] This bill which the gentleman from Michigan has called up is on the Private Calendar, and in the opinion of the Chair, under the rules, it is not eligible for consideration on Calendar Wednesday.

Preempting Time for Call of Calendar

§ 11.11 By a unanimous-consent agreement the House may provide for the taking up of certain business during the time for the call of the Private Calendar.

On Mar. 4, 1958,[9] the House commemorated the 53d anniversary of the inauguration of President Theodore Roosevelt during the time for the call of the Private Calendar, having previously agreed to do so by unanimous consent.[10]

Precedence of Conference Report

§ 11.12 The Speaker has recognized a Member to call up a conference report before directing the call of the Private Calendar on the first Tuesday of the month.

On Aug. 3, 1965,[11] Mr. Emanuel Celler, of New York, before the call of the Private Calendar on a Private Calendar day, was recognized to call up the conference report on the bill (S. 1564) to enforce the 15th amendment to the U.S. Constitution and asked unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

There was no objection.

Private Calendar Bills as Unfinished Business

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[6] 86 CONG. REC. 7629, 76th Cong. 3d Sess.

[7] William B. Bankhead (Ala.).

[8] See Rule XXIV clause 7, *House Rules and Manual* § 897 (1981).

[9] 104 CONG. REC. 3388, 85th Cong. 2d Sess.

[10] See also the unanimous-consent request to commemorate Pan American Day before the call of the Private Calendar. 104 CONG. REC. 6436, 6437, 85th Cong. 2d Sess., Apr. 15, 1958.

[11] 111 CONG. REC. 19187, 89th Cong. 1st Sess.

§ 11.13 When the House adjourns before completing action upon an omnibus private bill such bill goes over as unfinished business until that class of business is again in order under the rule.

On Mar. 17, 1936,(12) during consideration of an omnibus bill, Mr. John M. Costello, of California, moved that the House adjourn. Mr. Fred Biermann, of Iowa, inquired as to the status of the bill upon adjournment. The Speaker pro tempore(13) indicated that the bill would be the unfinished business of the House at the next call of the Private Calendar when that class of business was again in order.

§ 12. Objections; Disposition

When a bill is called on the Private Calendar two methods are available to prevent its consideration. The bill can be passed over or recommitted by unanimous consent,(14) or if two objections are heard the measure is automatically recommitted to the committee which reported it.(15) To this latter purpose the leadership of each party appoints official objectors in each Congress to screen measures on the calendar.(16)

The House has used the unanimous-consent request procedure to restore measures to the calendar or to rescind actions previously taken.(17)

Objections Based on Seven-day Requirement

§ 12.1 In taking up the Private Calendar, the official objectors may limit consideration to measures that have been on the calendar for at least seven days before being called.

On Mar. 2, 1965,(18) Mr. Edward P. Boland, of Massachusetts, announced the policy of the official objectors, both minority and majority, regarding the Private Calendar. Mr. Boland said:

> . . . [T]he members of the majority and minority Private Calendar objectors committees have today agreed that during the 89th Congress they will consider only those bills which have been on the Private Calendar for

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12. 80 Cong. Rec. 3901, 74th Cong. 2d Sess.
13. Edward T. Taylor (Colo.).
14. See §§ 12.4-12.7, infra.
15. Rule XXIV clause 6, *House Rules and Manual* § 893 (1981).
16. See §§ 12.2, 12.3, infra.
17. See §§ 12.14-12.17, infra.
18. 111 Cong. Rec. 3914, 3915, 89th Cong. 1st Sess.

> a period of 7 calendar days, excluding the day the bills are reported and the day the Private Calendar is called. . . .
>
> This policy will be strictly observed except during the closing days of each session when House rules are suspended.(19)

Appointment of Official Objectors

§ 12.2 Appointments of official objectors for the Private Calendar were announced by the Majority and Minority Leaders.

On Feb. 19, 1945,(20) Majority Leader John W. McCormack, of Massachusetts, announced the appointment for the Private Calendar of the objectors' committee on the Democratic side, consisting of three members.

Minority Leader Joseph W. Martin, Jr., of Massachusetts, announced the establishment of two objectors' on the Republican side for the Private Calendar.

Replacement of Objector

§ 12.3 An objector on the Private Calendar having been appointed to a subcommittee of the Committee on the Judiciary, a replacement was designated by the Minority Leader.

On Feb. 10, 1965,(1) Minority Leader Gerald R. Ford, of Michigan, made the following announcement:

> Mr. Speaker, the gentleman from Michigan [Mr. Hutchinson] is a member of the subcommittee of the Judiciary Committee which handles private claims, and that seems to be incompatible with his service on the Private Calendar objectors' committee.
>
> At his request he is being relieved of his assignment on the Private Calendar objectors' committee, and I have designated the gentleman from California [Mr. Talcott] to take his place.

Passing Over Omnibus Bills

§ 12.4 An omnibus private bill is normally passed over by the Clerk when the Private Calendar is called on the first Tuesday of the month, but the House sometimes prescribes, by special order, that such omnibus bills shall be passed over.

On June 27, 1968,(2) Mr. Carl Albert, of Oklahoma, asked unanimous consent that the [omnibus private] bill H.R. 16187 be passed over and not considered on the calling of the Private Calendar on July 2, 1968.

There was no objection.

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(19) See also 115 Cong. Rec. 6656, 91st Cong. 1st Sess., Mar. 18, 1969; and 103 Cong. Rec. 2249, 2250, 85th Cong. 1st Sess., Feb. 19, 1957.

(20) 91 Cong. Rec. 1255, 79th Cong. 1st Sess.

(1) 111 Cong. Rec. 2468, 89th Cong. 1st Sess.

(2) 114 Cong. Rec. 19106, 90th Cong. 2d Sess.

§ 12.5 The House agreed by unanimous consent that, on the call of the Private Calendar on the following day, an omnibus bill thereon be passed over.

On May 20, 1968,(3) Mr. Robert T. Ashmore, of South Carolina, asked unanimous consent that the omnibus bill (H.R. 16187) be passed over for consideration on the following day, the third Tuesday of the month.

There was no objection.(4)

Passing Over Without Prejudice

§ 12.6 The House often grants unanimous-consent requests that bills on the Private Calendar be passed over without prejudice.

On Mar. 18, 1947,(5) during the call of the Private Calendar the House granted unanimous consent that numerous bills be passed over without prejudice.

Recommittal by Unanimous Consent

§ 12.7 By unanimous consent, a bill was stricken from the Private Calendar and recommitted to the Commitee on the Judiciary.

On Nov. 19, 1963,(6) Mr. Frank L. Chelf, of Kentucky, asked unanimous consent that the bill, H.R. 1277, be removed from the Private Calendar and recommitted to the Committee on the Judiciary.

There was no objection.(7)

Reservation of Objection

§ 12.8 The rule providing for the call of the Private Calendar prohibits the Speaker from entertaining a reservation of objection, either to the consideration of a bill thereon or to a unanimous-consent request that the bill be passed over without prejudice.

On Nov. 4, 1969,(8) the Clerk called House Resolution 533, to refer a bill (H.R. 3722) for the relief of John S. Attinello to the Court of Claims.

Mr. Clarence J. Brown, of Ohio, asked unanimous consent that this resolution be passed over without prejudice. Mr. William L.

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3. 114 Cong. Rec. 13881, 90th Cong. 2d Sess.
4. For an identical procedure, see also 114 Cong. Rec. 20998, 90th Cong. 2d Sess., July 12, 1968; and 114 Cong. Rec. 17064, 90th Cong. 2d Sess., June 13, 1968.
5. 93 Cong. Rec. 2206-08, 80th Cong. 1st Sess.
6. 109 Cong. Rec. 22256, 88th Cong. 1st Sess.
7. See also 109 Cong. Rec. 24796, 88th Cong. 1st Sess., Dec. 17, 1963.
8. 115 Cong. Rec. 32889, 91st Cong. 1st Sess.

Hungate, of Missouri, reserved the right to object, but the Chair ruled that he could not do so. The following exchange ensued:

Mr. Hungate: Mr. Speaker, may I be heard on a point of order?

Mr. Speaker, I would raise the point of order that a reservation of objection to the unanimous-consent request would lie. This is not a reservation of objection to the bill. This is a reservation of objection to the unanimous-consent request to pass the bill over.

The Speaker:(9) The Chair calls the attention of the gentleman from Missouri to the rules of the House, clause 6, rule XXIV, which can be found on the inside page of the Private Calendar for today, in connection with the call of the Private Calendar that:

> No reservation of objection shall be entertained by the Speaker.

Mr. Hungate: Mr. Speaker, may I be heard on that paragraph?

The Speaker: The gentleman from Ohio has asked that the resolution be passed over without prejudice and in accordance with the specific rule applying to the Private Calendar, no reservation of objection shall be entertained by the Speaker.(10)

§ 12.9 Reservations of objections are not in order during the call of the Private Calendar.

On Apr. 21, 1964,(11) the Clerk called on the Private Calendar the bill (H.R. 2706) for the relief of Dr. and Mrs. Abel Gorfain. Mr. H. R. Gross, of Iowa, asked unanimous consent that this bill be passed over without prejudice. Mr. Carl Albert, of Oklahoma, reserved the right to object in order to propound a unanimous-consent request with reference to the calling of the Private Calendar.

The Speaker(12) responded, "The Chair will state that the gentleman cannot reserve the right to object on the Private Calendar."

Recognition for Statement

§ 12.10 In the consideration of the Private Calendar, the Chair does not recognize Members for requests to make statements.

On May 5, 1936,(13) the Clerk called on the Private Calendar the bill (H.R. 9002) for the relief of Captain James W. Darr. Two Members objected to the consideration of the bill and it was recom-

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9. John W. McCormack (Mass.).
10. The rule cited by Speaker McCormack was as follows: ". . . Should objection be made by two or more Members to the consideration of any bill or resolution other than an omnibus bill, it shall be recommitted to the committee which reported the bill or resolution and no reservation of objection shall be entertained by the Speaker. . . ." Rule XXIV clause 6, *House Rules and Manual* § 893 (1981).
11. 110 Cong. Rec. 8524, 88th Cong. 2d Sess.
12. John W. McCormack (Mass.).
13. 80 Cong. Rec. 6691, 74th Cong. 2d Sess.

mitted to the Committee on Military Affairs. Mr. Theodore Christianson, of Minnesota, then interjected:

> Mr. Christianson: Mr. Speaker, will not the gentlemen withhold their objection for a moment? Mr. Speaker, I ask unanimous consent to make a statement regarding this bill.
>
> The Speaker:(14) The Chair cannot recognize the gentleman for that purpose under the express provisions of the rule. Otherwise the Chair would be glad to hear the gentleman.

Restoring Passed-over Bill to Calendar

§ 12.11 The Speaker has declined to recognize a Member to request unanimous consent to make an omnibus private bill eligible for consideration when the House had previously agreed by unanimous consent that it should be passed over.

On July 15, 1968,(15) Mr. William L. Hungate, of Missouri, asked unanimous consent that the omnibus private bill H.R. 16187, be placed on the Private Calendar for July 16. The bill had been passed over three times by unanimous consent. The Speaker(16) ruled that such a request could not be entertained at that time.

Restoration of Stricken Bill

§ 12.12 The Speaker has declined to recognize Members for unanimous-consent requests that bills stricken from the Private Calendar be restored thereto until they have consulted with the official objectors.

On Apr. 19, 1948,(17) Mr. Thomas J. Lane, of Massachusetts, asked unanimous consent that the bill H.R. 403, be restored to the Private Calendar:

> The Speaker:(18) Has the gentleman consulted the objectors?
>
> Mr. Lane: No; I have not.
>
> The Speaker: The Chair cannot entertain the gentleman's request until he has done so.

§ 12.13 A private bill objected to and stricken from the Private Calendar has been restored to such calendar by unanimous consent.

On Jan. 18, 1944,(19) Mr. Noah M. Mason, of Illinois, asked unanimous consent that the bill (H.R. 2456) for the relief of Moses

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14. Joseph W. Byrns (Tenn.).
15. 114 Cong. Rec. 21326, 90th Cong. 2d Sess.
16. John W. McCormack (Mass.).
17. 94 Cong. Rec. 4573, 80th Cong. 2d Sess.
18. Joseph W. Martin, Jr. (Mass.).
19. 90 Cong. Rec. 331, 78th Cong. 2d Sess.

Tennenbaum be reinstated on the Private Calendar.

There was no objection.

Restoring Recommitted Bill

§ 12.14 A private bill objected to and recommitted has been restored to the Private Calendar by unanimous consent.

On June 15, 1944,(1) Mr. John Jennings, Jr., of Tennessee, asked unanimous consent that a recommitted bill (H.R. 2354) for the relief of Mrs. Phoebe Sherman be restored to the Private Calendar.

There was no objection.

§ 12.15 A bill which has been objected to by two Members, stricken from the Private Calendar and recommitted to the Committee on the Judiciary, was by unanimous consent restored to the Private Calendar.

On July 18, 1962,(2) Mr. John B. Anderson, of Illinois, asked unanimous consent that, notwithstanding the action taken by the House on a bill on the previous day [the bill had been objected to and recommitted to the Committee on the Judiciary], the bill (S. 2147) be restored to the Private Calendar.

There was no objection.(3)

Rescinding Reference to Court of Claims

§ 12.16 By resolution, the House has rescinded a previously adopted resolution whereby a private bill had been referred to the Court of Claims for a report, and the Court of Claims was directed to return the bill.

On Apr. 30, 1957,(4) Mr. Thomas J. Lane, of Massachusetts, offered a resolution (H. Res. 241) and asked unanimous consent for its immediate consideration:

> *Resolved,* That the adoption by the House of Representatives of House Resolution 174, 85th Congress, is hereby rescinded. The United States Court of Claims is hereby directed to return to the House of Representatives the bill (H.R. 2648) entitled "A bill for the relief of the MacArthur Mining Co., Inc., in receivership," together with all accompanying papers, referred to said court by said House Resolution 174.

The resolution was agreed to.

Rescinding Passage of Private Bill

§ 12.17 Both Houses adopted a concurrent resolution rescinding the action of each in con-

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(1) 90 Cong. Rec. 5972, 78th Cong. 2d Sess.

(2) 108 Cong. Rec. 13997, 87th Cong. 2d Sess.

(3) For a similar action see 108 Cong. Rec. 87th Cong. 2d Sess., Aug. 7, 1962.

(4) 103 Cong. Rec. 6159, 85th Cong. 1st Sess.

nection with the passage of a private bill and providing that the said bill be postponed indefinitely.

On Feb. 7, 1952,(5) Mr. Francis E. Walter, of Pennsylvania, asked unanimous consent for the immediate consideration of Senate Concurrent Resolution 50, rescinding the action on and indefinitely postponing Senate bill 1236 for the relief of Kim Song Nore:

> *Resolved by the Senate (the House of Representatives concurring),* That the action of the two Houses in connection with the passage of the bill (S. 1236) for the relief of Kim Song Nore be rescinded, and that the said bill be postponed indefinitely.

There was no objection to the unanimous-consent request, and the Senate concurrent resolution was agreed to.(6)

Transferring Private Bill to Union Calendar

§ 12.18 The Chair refused to submit to the House a unanimous-consent request that a private bill be transferred to the Union Calendar.

On July 31, 1939,(7) Mr. Walter G. Andrews, of New York, asked unanimous consent that the bill (H.R. 4723) reported from the Committee on Military Affairs to correct the military record of Oberlin M. Carter be transferred from the Private to the Union Calendar. The Speaker(8) stated that such transfer would be contrary to the precedents and refused to recognize Mr. Andrews for that purpose.

§ 13. Consideration, Debate, and Amendment

Private bills are considered in the House as in the Committee of the Whole,(9) and amendments are considered under the five-minute rule.(10)

Provision for the consideration of omnibus bills (i.e., consolidation into one bill of numerous private bills of the same class) was added to the rules of the House in 1935.(11) The validity of this rule has been sustained, both as an internal House procedure and under

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5. 98 Cong. Rec. 934, 82d Cong. 2d Sess.
6. This action was necessary because the individual named in the bill died.
7. 84 Cong. Rec. 10563, 76th Cong. 1st Sess.
8. William B. Bankhead (Ala.).
9. Rule XXIV clause 6, *House Rules and Manual* § 893 (1981).
10. See § 13.2, infra.
11. H. Res. 172, 79 Cong. Rec. 4480–89, 4538, 74th Cong. 1st Sess., Mar. 26, 27, 1935.

principles of comity with the Senate. (See § 13.1, infra.)

Consideration and Validity of Omnibus Bills

§ 13.1 The House may by rule provide for the consolidation into an omnibus bill of private bills and direct the manner in which such omnibus bills shall be considered, including the consolidation therein of Senate bills passed by the Senate and referred to the House.

On July 16, 1935,(12) the Clerk called on the Private Calendar the bill (H.R. 8060) for the relief of sundry claimants [an omnibus bill].

Mr. Thomas L. Blanton, of Texas, raised the point of order that Rule XXIV clause 6, authorizing omnibus bills, was inoperative and did not in fact authorize such omnibus bills.(13)

Mr. Blanton argued that the omnibus bill provision in Rule XXIV clause 6, adopted four months earlier,(14) contradicted Rule XX clause 1 which provides "Any amendment of the Senate to any House bill shall be subject to the point of order that it shall first be considered in the Committee of the Whole House on the state of the Union, if, originating in the House, it would be subject to that point." Mr. Blanton said, ". . . After we pass one of these omnibus bills, and it is unscrambled by resolving all of the House bills passed on it, into their original forms, and we send them to the Senate and the Senate should amend them by placing an entirely new amendment on a House bill carrying $100,000,000, under Rule XX, we would have to consider it in the Committee of the Whole House on the state of the Union, but under this new rule—clause 6 of Rule XXIV—we could consider it in the House in direct violation of Rule XX, which has neither been amended nor repealed."

Mr. Blanton then cited Rule XXI clause 1 providing:

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12. 79 Cong. Rec. 11259, 74th Cong. 1st Sess.

13. Mr. Blanton gave advance notice of his point of order four days previously along with a summary of his arguments against the application of Rule XXIV clause 6, ". . . so that," he said, "the Speaker in the meantime may examine the authorities which may be presented by myself or by the Parliamentarian." 79 Cong. Rec. 11113, 11114, 74th Cong. 1st Sess., July 12, 1935.

14. H. Res. 172, 79 Cong. Rec. 4480–89, 4538, 74th Cong. 1st Sess., Mar. 26, 27, 1935.

> Bills and joint resolutions on their passage shall be read the first time by title and the second time in full, when, if the previous question is ordered, the Speaker shall state the question to be, Shall the bill be engrossed and read a third time? and, if decided in the affirmative, it shall be read the third time by title . . . and the question shall then be put upon its passage.

Mr. Blanton said:

> . . . [I]ts provisions relating to the engrossment of a House bill could not be followed out with regard to one of these omnibus bills, because you do not engross a bill until just before its final passage, and under clause 6 of rule XXIV these omnibus bills may embrace a number of House bills, and also a number of Senate bills, which have already been engrossed by the Senate, and under rule XXI you could not properly engross such a bill.

Mr. Blanton next cited Rule XXIII clause 3 providing:

> All motions or propositions involving a tax or charge upon the people, all proceedings touching appropriations of money, or bills making appropriations of money or property, or requiring such appropriation to be made, or authorizing payments out of appropriations already made, or releasing any liability to the United States for money or property, or referring any claim to the Court of Claims, shall be first considered in a Committee of the Whole, and a point of order under this rule shall be good at any time before the consideration of a bill has commenced.

Mr. Blanton continued:

> That is a standing rule of this House. It has been a rule of this House for many years. It has never been amended. It has never been repealed. It has never been changed by one word, I submit to the Speaker. Yet, if you proceed under it, you certainly could not proceed under this new clause 6 of rule XXIV.
>
> We all know that in the Committee of the Whole there is generous general debate allowed, while under clause 6 of Rule XXIV there is no general debate and only a few minutes allowed for amendments.(15)

Mr. Blanton next cited Rule XXIII clause 5 providing:

> When general debate is closed by order of the House, any Member shall be allowed 5 minutes to explain any amendment he may offer, after which the Member who shall first obtain the floor shall be allowed to speak 5 minutes in opposition to it, and there shall be no further debate thereon, but the same privilege of debate shall be allowed in favor of and against any amendment that may be offered to an amendment; and neither an amendment nor an amendment to an amendment shall be withdrawn by the mover thereof unless by the unanimous consent of the committee.

Mr. Blanton said:

> This is a standing rule of the House and has been a rule of the House for many years. It has not been changed, it has not been repealed, it has not been amended; and it is in conflict

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15. 79 Cong. Rec. 11259, 11260, 74th Cong. 1st Sess.

with this so-called "change of one rule, clause 6 of rule XXIV." The rights which it safeguards to Members are curtailed and to a large extent wiped out by this new clause 6 of rule XXIV. Under which are we to operate?

I want to call attention to just a few of the Senate rules relative to Senate bills. This so-called "change of clause 6 of rule XXIV", just one clause of one rule, not only affects House bills, Mr. Speaker, but it materially affects Senate bills that are properly passed by the Senate of the United States and messaged over to the House and properly referred to committees by the Speaker under the rules of this House, and the comity that exists between the House and the Senate, which comity has existed ever since the beginning of the Congress. . . .(16)

[The omnibus bill] comes back into the House with a new number on the House Private Calendar, with the Senate identity lost and the Senate number lost, so far as the bill number is concerned. . . .

Mr. Speaker, you cannot pass legislation in that way, that takes money out of the Public Treasury. You cannot pass legislation under the rules of the House that have been in vogue for 140 years, since Congress was first created, by a simple House resolution. That is against the Senate rules and against the rules of the House. The law provides that when a bill takes money out of the Public Treasury it must go into the Committee of the Whole House, whether it is a House bill or a Senate bill. If it is a House bill, if it takes money out of the Public Treasury, it must be debated in the Committee of the Whole. If it is a Senate bill and takes money out of the Public Treasury, it must be debated in Committee of the Whole. That is the protection placed by Congress around the taxpayers' money. . . .

I do not know what the Speaker's ruling is . . . if the Comptroller General rules against any of these bills after they are passed, or if any taxpayer of the United States, and there will be some, ever brings such a bill before the Supreme Court of the United States for revision and contests the legality of its passage, the legality of taking the people's money out of the Treasury in this haphazard way by a simple House resolution, then there will be a chance for the Supreme Court to render a proper decision upon it.

I submit the matter to the Speaker.(17)

The Chair responded:

The Speaker:(18) . . . The gentleman from Texas, in his argument today, has contended that this rule conflicts with a number of rules to which he has referred. Without passing upon the question of whether or not there is a conflict, the Chair will state that if there is a conflict the rule last adopted would control. The Chair assumes that if this rule should be found to conflict with previous rules, that the House intended, at least by implication, to repeal that portion of the previous rule with which it is in conflict. . . .

The gentleman contends that the House may not, in the exercise of the power conferred upon it by the Consti-

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16. *Id.* at pp. 11260, 11261.

17. *Id.* at pp. 11262, 11263.

18. Joseph W. Byrns (Tenn.).

tution "to determine the rules of its proceedings,"(19) adopt a rule which has the effect of permitting an omnibus bill to contain one or more separate Senate bills as well as sundry House bills.

The Chair, in passing upon points of order, is limited by the terms of the rule which is applicable to the determination of the point of order. . . . Although it is not necessary for the determination of the point of order for the Chair to pass upon the question as to whether the House had the power to make such a rule, the Chair will refer but briefly to two decisions heretofore made—one by an eminent Speaker and one by the Supreme Court of the United States.

Mr. Speaker Blaine, in the Forty-third Congress, in passing upon a question involving the right of the House to formulate rules, said:

> He (the Chair) has several times ruled that the right of each House to determine what shall be its rules is an organic right expressly given by the Constitution of the United States. . . . The House is incapable, by any form of rules, of divesting itself of its inherent constitutional power to exercise its function to determine its own rules.

The Supreme Court, speaking through Mr. Justice Brewer in *U.S.* v. *Ballin* (144 U.S. 1), said:

> Neither do the advantages or disadvantages, the wisdom or folly, of . . . a rule present any matters for judicial consideration. With the courts the question is only one of power. The Constitution empowers each House to determine its rules of proceedings. It may not by its rules ignore constitutional restraints or violate fundamental rights, and there should be a reasonable relation between the mode or method of proceeding established by the rule and the result which is sought to be attained. But within these limitations all matters of method are open to the determination of the House, and it is no impeachment of the rule to say that some other way would be better, more accurate, or even more just. . . .

There has been some concern expressed as to whether it is possible to identify the Senate bills incorporated in an omnibus House bill. This concern may be removed by merely glancing at an omnibus bill. We find there that the Senate bills carry their own number and title in a paragraph set off by itself. Inasmuch as the omnibus bill carries each individual bill included therein by its number and title, it does not seem as though too great a difficulty would be encountered for the clerks after the passage of the omnibus bill to resolve the portions thereof into their original form. That is merely a clerical undertaking which does not present any undue difficulty. The Chair would think that after the passage of an omnibus bill the Journal would show the specific action on each individual bill which had been embodied in it. A message would be sent to the Senate stating that the House had passed such and such a bill, if it be a House bill, and requesting the concurrence of the Senate therein. If it be a Senate bill, the message would merely state that the House had passed it with the attestation of the Clerk of the House, which would not be questioned by the Senate.(20)

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19. U.S. Const. art. I, § 5, para. 2.

20. *Id.* at pp. 11264, 11265.

Debate on Amendments Under Five-minute Rule

§ 13.2 Amendments to measures on the Private Calendar are debatable under the five-minute rule. Debate is limited to five minutes in favor of and five minutes in opposition to an amendment.

On Dec. 14, 1967,(1) during consideration of a committee amendment to a resolution (H. Res. 981) expressing the disapproval of the House with respect to the granting of permanent residence in the United States to certain aliens, Mr. H. R. Gross, of Iowa, rose in opposition to the amendment and was granted five minutes to express his opposition. At the end of that five minutes Mr. Gross asked permission to proceed an additional two minutes.

The Speaker(2) ruled that an extension of time was not in order.

Mr. Michael A. Feighan, of Ohio, sought recognition to speak in favor of the same amendment. The Chair ruled that a member of the committee reporting the resolution was entitled to recognition. Mr. Feighan proceeded for five minutes to debate the committee amendment.

Requests to Address the House

§ 13.3 In considering bills on the Private Calendar the Chair refuses to recognize Members for unanimous-consent requests to address the House.

On May 7, 1935,(3) at the call on the Private Calendar of the bill (S. 41) for relief of the Germania Catering Company, Inc., the Speaker pro tempore(4) asked whether there was objection to the consideration of the bill.

Mr. Charles V. Truax, of Ohio, asked unanimous consent to proceed for five minutes. The Chair responded that he would not be recognized for that purpose.

Extending Time for Debate

§ 13.4 In the consideration of omnibus private bills under the five-minute rule the Chair does not recognize Members for the purpose of extending time for debate in support of an amendment.

On Apr. 22, 1936,(5) during consideration of the omnibus bill (S. 267) for the relief of certain officers and employees of the foreign service, Mr. Sol Bloom, of New

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1. 113 Cong. Rec. 36535–37, 90th Cong. 1st Sess.
2. John W. McCormack (Mass.).
3. 79 Cong. Rec. 7100, 74th Cong. 1st Sess.
4. John J. O'Connor (N.Y.).
5. 80 Cong. Rec. 5900, 74th Cong. 2d Sess.

York, offered an amendment. After speaking five minutes in support of his amendment Mr. Bloom asked unanimous consent to proceed for five additional minutes. The Chair responded:

> The Speaker:(6) The Chair cannot recognize the gentleman for that purpose under the rule.

§ 13.5 During the consideration of an omnibus private bill the Chair has refused to recognize Members for unanimous-consent requests to extend the time for debate in opposition to an amendment.

On July 20, 1937,(7) during consideration of the omnibus private bill (H.R. 6336) for the relief of sundry claimants, Mr. Clarence E. Hancock, of New York, offered an amendment to strike out all of title I (H.R. 886) of the omnibus bill. After speaking five minutes in opposition to the amendment, Mr. Alfred F. Beiter, of New York, asked unanimous consent to proceed for one additional minute in order to answer a question. The Chair(8) ruled that under the rule covering the consideration of these bills, five minutes on each side is the limit for debate.

Hour Rule for Debate of Bill

§ 13.6 When consideration of a private bill in the House is granted by unanimous consent the Member making the request is recognized for one hour.

On Mar. 12, 1963,(9) Mr. Emanuel Celler, of New York, asked unanimous consent for the immediate consideration in the House of the bill (H.R. 4374) to proclaim Sir Winston Churchill an honorary citizen of the United States. Mr. H. R. Gross, of Iowa, raised a parliamentary inquiry:

> Mr. Gross: Mr. Speaker, under what circumstances will this resolution be considered? Will there be any time for discussion of the resolution, if unanimous consent is given?
>
> The Speaker:(10) In response to the parliamentary inquiry of the gentleman from Iowa, if consent is granted for the present consideration of the bill, the gentleman from New York [Mr. Celler] will be recognized for 1 hour and the gentleman from New York may yield to such Members as he desires to yield to before moving the previous question.

Nongermane Amendments

§ 13.7 A committee amendment to a private bill adding language that is general or public in character is not germane.

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6. Joseph W. Byrns (Tenn.).
7. 81 Cong. Rec. 7293-95, 75th Cong. 1st Sess.
8. William B. Bankhead (Ala.).
9. 109 Cong. Rec. 3993, 88th Cong. 1st Sess.
10. John W. McCormack (Mass.).

On June 20, 1950,(11) the House considered the private bill (S. 2309) granting permanent residence to certain aliens. As reported to the floor the bill contained a committee amendment authorizing 3,200 passport visas in any fiscal year to be issued to eligible foreign specialists as nonimmigrants.

Mr. Wesley A. D'Ewart, of Montana, raised the point of order against the amendment on the grounds that it was a general amendment to a private bill and therefore not germane. The Speaker(12) sustained the point of order citing section 3292 of 4 Hinds' Precedents:

> It is not in order to amend a private bill by adding provisions general or public in character.

§ 13.8 It is not in order to amend a private bill with a proposition that is in the nature of general legislation.

On June 13, 1940,(13) Mr. Warren G. Magnuson, of Washington, offered an amendment to the pending private bill ordering the Secretary of Labor to take into custody and deport Harry Bridges. The amendment was as follows:

> . . . Strike out all after enacting clause and insert "That any alien who, at any time after entering the United States, is found to have been at the time of entry, or to have become thereafter, a member of the Nazi, Fascist, or Communist Party, or who advises, advocates, or teaches the doctrines of nazi-ism, fascism, or communism, or who is a member of, or affiliated with, any organization, association, society, or group, that advises, advocates, or teaches the doctrines of nazi-ism, fascism, or communism, shall, upon the warrant of the Secretary of Labor, be taken into custody and deported in the manner provided in the Immigration Act of February 5, 1917."

Mr. John Lesinski, of Michigan, raised the point of order that this amendment was general legislation and not germane to a private bill. The Chair sustained the point of order.

Withdrawal of Committee Amendment

§ 13.9 During the consideration of a bill on the Private Calendar, a Member obtained unanimous consent to vacate and withdraw a committee amendment which had been agreed to.

On May 18, 1965,(14) the private bill (H.R. 2351) for the relief of

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11. 96 Cong. Rec. 8914, 81st Cong. 2d Sess.
12. Sam Rayburn (Tex.).
13. 86 Cong. Rec. 8213, 8214, 76th Cong. 3d Sess.
14. 111 Cong. Rec. 10874, 89th Cong. 1st Sess.

Teresita Centeno Valdez was read along with committee amendments, which were agreed to. Mr. Frank L. Chelf, of Kentucky, asked unanimous consent to withdraw the committee amendments.

There was no objection.

Motion to Strike Enacting Clause

§ 13.10 A motion to strike out the enacting clause is in order during the consideration of an omnibus private bill.

On May 18, 1937,(15) during consideration of the omnibus private bill (H.R. 5897) for the relief of sundry aliens, Mr. Joe Starnes, of Alabama, made a motion to strike out the enacting clause.

Mr. John J. O'Connor, of New York, made a point of order against the motion:

> Mr. O'Connor of New York: Mr. Speaker, under the Private Calendar rule, the only motion in order during the consideration of an omnibus bill is a motion, as each bill is called, either to strike out the paragraph or to reduce the amount or to add limitations.(16)
>
> May I say further, Mr. Speaker, that in considering this rule providing for consideration of the Private Calendar, either the individual bills or the omnibus bills, it was deliberately provided that there would be a limitation on motions. It was discussed in the [Rules] committee that such bills would not be handled as other bills, with a motion to strike out the enacting clause, which would go to the entire omnibus bill, which in this instance includes 15 individual bills. Such a motion does not come within the intent of the rule with respect to the handling of omnibus bills, because if you strike out the enacting clause of the omnibus bill, by one stroke you defeat the consideration of 15 individual bills, and it was intended that each of the 15 bills would be considered in the House as in Committee of the Whole, and that only those three motions mentioned would lie, and only against the individual paragraphs.
>
> There is no question in the mind of myself, who has sometimes been called the author of the rule for the consideration of the Private Calendar, which was brought out from the Rules Committee, as to the intent with reference to this rule.
>
> The Speaker:(17) . . . [Rule XXIV, clause 6, para. 3] imposes restrictions only on the kind of amendments that may be offered during the consideration of an omnibus bill. The Chair has been unable to find any provision of the rule which would prohibit the offering of any other motion provided in the general rules of the House. Certainly the Private Calendar rule does

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15. 81 Cong. Rec. 4727, 4728, 75th Cong. 1st Sess.

16. "Omnibus bills shall be read for amendment by paragraph, and no amendment shall be in order except to strike out or to reduce amounts of money stated or to provide limitations. . . ." Rule XXIV clause 6, para. 3.

17. William B. Bankhead (Ala.).

not by specific language deprive a Member of the right to offer a motion to strike out the enacting clause as provided in clause 7, rule XXIII.

The Chair cited a similar ruling by the late Speaker Byrns on Mar. 17, 1936. At that time he held:

> A motion to strike out the enacting clause is in order during the consideration of omnibus private bills and is debatable under the 5-minute rule. . . .
>
> And this is the portion of the rule Mr. Speaker Byrns read:
>
> > A motion to strike out the enacting words of a bill shall have precedence of a motion to amend; and if carried, shall be equivalent to its rejection. . . .
>
> Based upon that direct decision upon the question and the reasons heretofore stated, the Chair feels impelled to overrule the point of order.

§ 13.11 A motion to strike out the enacting clause of an omnibus private bill takes precedence over an amendment to strike out a title of the bill, and, if adopted, applies to the entire bill.

On May 16, 1939,(18) during the consideration of an omnibus private bill (H.R. 6182) for the relief of sundry aliens, Mr. Thomas A. Jenkins, of Ohio, offered an amendment to strike out all of title I (H.R. 658) of the bill.

After debate but before a vote on that amendment, Mr. A. Leonard Allen, of Louisiana, offered a preferential motion that the enacting clause be striken out. After debate on the preferential motion Mr. Jenkins raised a parliamentary inquiry:

> MR. JENKINS of Ohio: I notice this bill has four titles. Up to this time we have only been dealing with one title, but I take it the motion to strike out the enacting clause will strike out the enacting clause for the entire bill.
>
> THE SPEAKER PRO TEMPORE:(19) That is true.
>
> MR. JENKINS of Ohio: As I understand it, that would not be in opposition to my amendment, except that it would strike this whole bill out, and then it could go back to the Committee on Immigration, if necessary.
>
> THE SPEAKER PRO TEMPORE: The adoption of the pending preferential motion would strike out the enacting clause with reference to the omnibus bill and the various individual bills contained therein.
>
> MR. [SAMUEL] DICKSTEIN [of New York]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER PRO TEMPORE: The gentleman will state it.
>
> MR. DICKSTEIN: If the motion of the gentleman from Ohio is agreed to, then that kills this bill?
>
> THE SPEAKER PRO TEMPORE: The gentleman from Louisiana [Mr. Allen] has offered a preferential motion to strike out the enacting clause. If that motion

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(18) 84 CONG. REC. 5614-18, 76th Cong. 1st Sess.

(19) Fritz G. Lanham (Tex.).

is adopted, then there would be no further consideration of the bill. It would apply to all titles enumerated in the bill.

MR. DICKSTEIN. If that motion is not adopted, then what will be the procedure?

THE SPEAKER PRO TEMPORE: If the gentleman's motion is not adopted, the next procedure would be to vote upon the amendment offered by the gentleman from Ohio [Mr. Jenkins] to strike out title I of the bill.

§ 13.12 A motion to strike out the enacting clause is in order during the consideration of omnibus private bills and is debatable under the five-minute rule, but a motion to strike out the last word is not in order.

On Mar. 17, 1936,(20) during consideration of the omnibus private bill (H.R. 8524) for the relief of sundry claimants, Mr. Thomas L. Blanton, of Texas, moved to strike out the enacting clause:

MR. [FRED] BIERMANN [of Iowa]: Mr. Speaker, I make a point of order against that. I do not believe that motion is allowed under the rule.

THE SPEAKER:(1) The motion to strike out the enacting clause is not an amendment in the sense contemplated by the rule. The Chair is of the opinion that the motion is in order and the gentleman from Texas is recognized for 5 minutes. . . .

MR. BIERMANN: Mr. Speaker, a parliamentary inquiry. Under the rule we are working under I find these words:

> Omnibus bills shall be read for amendment by paragraph, and no amendment shall be in order except to strike out or to reduce amounts of money or to provide limitation.

My inquiry is whether or not it is going to be in order for me to move to strike out the last word?

THE SPEAKER: It will not.

MR. BIERMANN: Is the gentleman from Texas out of order?

THE SPEAKER: He is not. The gentleman from Texas moved to strike out the enacting clause. He did not offer an amendment.

Pro Forma Amendments

§ 13.13 Motions to strike out the last word are not in order during the consideration of omnibus private bills.

On July 20, 1937,(2) during consideration of an amendment to title I of the omnibus private bill (H.R. 6336), Mr. Fred L. Crawford, of Michigan, moved to strike out the last word. The Speaker(3) ruled that under the rule the Chair could not entertain that motion. The question at this time was the amendment offered to title I of the bill.

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20. 80 CONG. REC. 3894, 3895, 74th Cong. 2d Sess.

1. Joseph W. Byrns (Tenn.).

2. 81 CONG. REC. 7295, 75th Cong. 1st Sess.

3. William B. Bankhead (Ala.).

§ 13.14 Pro forma amendments are not in order during the consideration of an omnibus private bill.

On July 20, 1937,(4) during consideration of an amendment offered to title III of an omnibus private bill (H.R. 6336), Mr. Walter M. Pierce, of Oregon, moved to strike out the last word. The Chair ruled:

> The Speaker Pro Tempore:(5) The Chair cannot recognize the gentleman to make that motion. Under the rule for the consideration of omnibus bills on the Private Calendar, the only amendments in order are "to strike out or reduce amounts of money stated or to provide limitations." A pro forma amendment is therefore not in order.
>
> The question is on the motion . . . to strike out the title.

§ 13.15 Under the earlier practice, it was in order during the consideration of individual bills (but not omnibus bills) on the Private Calendar to strike out the last word.

On Apr. 7, 1936,(6) during the call on the Private Calendar of the bill (S. 2682) for the relief of Chief Carpenter William F. Twitchell, U.S. Navy, Mr. Marion A. Zioncheck, of Washington, moved to strike out the last word. Mr. Clarence E. Hancock, of New York, made the point of order that under the rule amendments of this kind cannot be offered.

The Chair responded:

> The Speaker:(7) . . . The Chair, after examination of the rule, thinks that the restriction with reference to the offering of amendments applies only to omnibus bills.

§ 13.16 Under the modern practice, pro forma amendments to bills on the Private Calendar, whether omnibus or individual bills, are not permitted.

On Feb. 16, 1954,(8) during consideration of the private bill (H.R. 7460), Mr. Clare E. Hoffman, of Michigan, moved to strike out the last word and asked unanimous consent to revise and extend his remarks and to proceed out of order. After passage of the bill, the Speaker(9) said, "The Chair wishes to make a statement in order to clarify the rules of procedure during the call of the Private Calendar. Inadvertently, the Chair recognized the gentleman from Michigan to strike out the last word. Under the rules of the House, of course, that may be

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4. 81 Cong. Rec. 7299, 75th Cong. 1st Sess.
5. John J. O'Conner (N.Y.).
6. 80 Cong. Rec. 5075, 74th Cong. 2d Sess.
7. Joseph W. Byrns (Tenn.).
8. 100 Cong. Rec. 1826, 1827, 83d Cong. 2d Sess.
9. Joseph W. Martin, Jr. (Mass.).

done on bills on the Consent Calendar, but not on the Private Calendar."

On Aug. 30, 1960,(10) during consideration of the private bill (S. 3439) authorizing the President to present a gold medal to the poet Robert Frost, Mr. Clare E. Hoffman, of Michigan, moved to strike out the last word.

The Speaker pro tempore, Wilbur D. Mills, of Arkansas, replied, "An amendment to strike out or reduce an amount would be in order, but not a pro forma amendment."

On Dec. 14, 1967,(11) during consideration of a committee amendment to a resolution (H. Res. 981) expressing the disapproval of the House to the granting of permanent residence in the United States to certain aliens, Mr. Durward G. Hall, of Missouri, moved to strike out the requisite number of words. The Speaker(12) ruled that the motion was not in order.

§ 13.17 An amendment proposing a minimal reduction of the amount of money in an omnibus private bill is a pro forma amendment and therefore not in order.

On July 20, 1937,(13) Mr. Everett M. Dirksen, of Illinois, offered an amendment to an omnibus private bill (H.R. 6336) to reduce the amount stated from $5,000 to $4,999.99.

The Chair ruled:

> THE SPEAKER PRO TEMPORE:(14) The Chair must hold that under the spirit of the rule for the consideration of omnibus private bills, such an amendment, which is in effect a pro forma amendment, is not in order, and in addition thereto, the amendment offered is an amendment to an amendment already adopted, and therefore not in order.

Striking Part of Omnibus Bill

§ 13.18 Where an omnibus private bill contains an individual private bill that has been laid on the table, the Chair upon the presentation of a point of order has ordered the individual bill stricken from the omnibus bill.

On Apr. 22, 1936,(15) during the call on the Private Calendar of the omnibus bill H.R. 852, Mr. John J. Cochran, of Missouri, raised the point of order that title

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(10) 106 CONG. REC. 18389, 86th Cong. 2d Sess.

(11) 113 CONG. REC. 36537, 90th Cong. 1st Sess.

(12) John W. McCormack (Mass.).

(13) 81 CONG. REC. 7299, 75th Cong. 1st Sess

(14) John J. O'Connor (N.Y.).

(15) 80 CONG. REC. 5894, 5895, 74th Cong. 2d Sess.

IX of such bill (H.R. 3075) was laid on the table in August of 1935:

> Mr. Cochran: . . . Mr. Speaker, I make the point of order that the committee had no right or authority to include this bill in an omnibus bill, because it has already been tabled and was not rereferred to the committee.
>
> The Speaker:(16) . . . The Chair holds that this bill, having been laid on the table by action of the House, is not a proper bill to be included in the pending omnibus bill. The only way to get it up would be by submitting a unanimous-consent request to take it from the table and consider it.
>
> The Chair therefore sustains the point of order.

§ 14. Private Bills and House-Senate Relations

Resolving Omnibus Bill Into Individual Bills

§ 14.1 Under the Private Calendar rule omnibus bills upon their passage are resolved into the several original bills of which they are composed and are messaged to the Senate as individual bills and not as an omnibus bill.

On Jan. 27, 1936,(17) Mr. John J. Cochran, of Missouri, raised a parliamentary inquiry:

> Mr. Cochran: In the last session of Congress the House passed an omnibus-claims bill. That bill went to the Senate and one bill I have in mind was passed by the Senate with amendments and is now in conference. I desire to inquire if that conference report will come back to the House on that particular bill or will it come back to the House as a conference report on the omnibus claims bill?
>
> The Speaker:(18) The conferees will report on the individual bill which was passed by the two Houses. The gentleman understands that under the Private Calendar rule, after an omnibus bill is passed by the House, it is resolved into the several bills of which it is composed so that each bill contained therein again assumes its original form. The Chair thinks the gentleman will find that there are no omnibus-claims bills in conference but that there may be some individual bills in conference that were at one time incorporated in an omnibus bill. In that case the conferees could only report on the individual bills committed to them.
>
> Mr. Cochran: Then it will come back here as a conference report on an individual bill and considered under the general rules of the House?
>
> The Speaker: The gentleman is correct.

Considering Senate Bill by Resolution

§ 14.2 Parliamentarian's Note: Where a private Senate bill resulting in the expenditure of public funds [and thus requir-

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16. Joseph W. Byrns (Tenn.).
17. 79 Cong. Rec. 1047, 74th Cong. 2d Sess.
18. Joseph W. Byrns (Tenn.).

ing consideration in the Committee of the Whole] is not privileged and cannot be taken from the Speaker's table for direct action by the House, the House may adopt a resolution taking the bill from the table and providing for its consideration.

On Mar. 14, 1961,(19) the House considered and adopted House Resolution 224, called up from the Committee on Rules, providing for the taking from the Speaker's table and considering in the Committee of the Whole House on the state of the Union the bill (S. 1173) to authorize the appointment of Dwight David Eisenhower to the active list of the regular Army.

Tabling Part of an Omnibus Bill

§ 14.3 After passage of an omnibus private bill on the calendar, Senate bills pending on the Speaker's table which are identical or similar to those contained in the omnibus bill may be disposed of in the House by unanimous consent. After disposition of a Senate bill, the similar House bill—a component of the omnibus bill—may be laid on the table by unanimous consent so that two measures involving the same private relief will not be messaged to the Senate.

On Sept. 17, 1968,(20) Mr. Herbert Tenzer, of New York, asked unanimous consent for the immediate consideration of the bill (S. 857) for the relief of Puget Sound Plywood, Inc., of Tacoma, Wash. This bill was similar to title IX (H.R. 4949) of the omnibus bill (H.R. 16187) which the House had just passed.(1)

There was no objection.

Mr. Tenzer then offered an amendment to the Senate bill reducing the amount of the claim provided for in the bill from $44,016.62 to $9,593.72, so that the Senate bill as amended would be identical to the House bill just passed.

The amendment was agreed to, the Senate bill was passed, and by unanimous consent the proceedings whereby the identical House bill (H.R. 4949) was passed were vacated and the House bill laid on the table.

Considering Similar Senate and House Bills

§ 14.4 After the passage in the House of an omnibus private

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19. 107 Cong. Rec. 3911, 3914, 87th Cong. 1st Sess.

20. 114 Cong. Rec. 27184, 27185, 90th Cong. 2d Sess.

1. *Id.* at p. 27184.

bill it is in order by unanimous consent to take from the Speaker's table and pass a similar Senate bill, in which event the proceedings whereby the House bill passed should be vacated and the bill laid on the table.

On Apr. 22, 1936,(2) Mr. Clyde Williams, of Missouri, asked unanimous consent for the present consideration of the bill (S. 713) granting jurisdiction to the Court of Claims to hear the case of David A. Wright, which was identical to the bill H.R. 2713 in the [omnibus] bill (H.R. 8524, title IV) just passed:

> THE SPEAKER:(3) Is there objection?
>
> There being no objection, the bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.
>
> MR. WILLIAMS: Mr. Speaker, I ask unanimous consent to vacate the proceedings of the House by which H.R. 2713 was passed.
>
> THE SPEAKER: The gentleman from Missouri asks unanimous consent to vacate the proceedings of the House whereby H.R. 2713 was passed and to lay that bill on the table. Is there objection?
>
> There was no objection.

§ 14.5 Where an omnibus private bill is passed containing House bills similar to Senate bills on the Speaker's table the Speaker recognizes Members for unanimous-consent requests to take up such Senate bills for consideration; upon passage of the Senate bill, the House vacates action on the similar House bill.

On Aug. 21, 1935,(4) the Chair made the following statement:

> THE SPEAKER:(5) In the omnibus bills which were passed on yesterday there were included several bills which had previously passed the Senate and were on the Speaker's table. The Chair feels that those Members who are interested in those particular bills should have an opportunity to ask unanimous consent for the immediate consideration of the Senate bills, so that they can be taken out of the omnibus bills when they are reported to the Senate. . . .
>
> MR. [WILLIAM A.] PITTENGER [of Minnesota]: Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (S. 1448) for the relief of certain claimants who suffered loss by fire in the State of Minnesota during October 1918.
>
> THE SPEAKER: Is that one of the bills in the omnibus bill that was passed yesterday?
>
> MR. PITTENGER: It is one of the bills in the omnibus bill passed on yesterday.(6)

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2. 80 CONG. REC. 5897, 5898, 74th Cong. 2d Sess.
3. Joseph W. Byrns (Tenn.).
4. 79 CONG. REC. 13993, 74th Cong. 1st Sess.
5. Joseph W. Byrns (Tenn.).
6. By this Mr. Pittenger meant that the Senate bill in question was the same as the House bill (H.R. 3662) which was passed the previous day as part

The Clerk read the title of the bill.

The Speaker: Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The Speaker: Without objection the procedure by which title IV of the omnibus bill (H.R. 3662) was passed on yesterday will be vacated, and the House bill laid on the table.

There was no objection.

Private Senate Bills at the Speaker's Table

§ 14.6 The House by resolution provided for the consideration of private Senate bills on the Private Calendar as well as private Senate bills on the Speaker's table, where similar House bills have been favorably reported and were on the Private Calendar.

On Feb. 25, 1933,(7) the House considered House Resolution 398, called up by Mr. Henry T. Rainey, of Illinois:

> *Resolved,* That on Wednesday, March 1, 1933, it shall be in order to move that the House take a recess until 8 o'clock p.m., and that at the evening session until 10:30 p.m. it shall be in order to consider Senate bills on the Private Calendar and Senate bills on the Speaker's table where similar House bills have been favorably reported and are now on the Private Calendar, the call of said bills to begin where the last call of the Private Calendar ended. In order to expedite the consideration of said bills the Clerk shall prepare a special Private Calendar of Senate bills eligible to be considered under this resolution, and the bills on said special calendar unobjected to shall be considered in their numerical order on said calendar in the House as in Committee of the Whole: *Provided,* That after the completion of the call of bills on said special Private Calendar of Senate bills it shall be in order to call the bills on the Private Calendar where the last call on the Private Calendar ended.

House Bills and Unrelated Amendments

§ 14.7 The House has suspended the rules and agreed to a private House bill with a Senate amendment extending the life of the Civil Rights Commission.

On Oct. 7, 1963,(8) Mr. Emanuel Celler, of New York, moved that the House suspend the rules and adopt a resolution (H. Res. 541) that the private bill (H.R. 3369) for the relief of Elizabeth G.

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of the omnibus bill (H.R. 8108, 79 Cong. Rec. 13842-55, 74th Cong. 1st Sess., Aug. 20, 1935), while its counterpart, S. 1443, remained at the Speaker's table.

7. 76 Cong. Rec. 5021, 72d Cong. 2d Sess.

8. 109 Cong. Rec. 18851-64, 88th Cong. 1st Sess.

Mason, with a Senate amendment thereto extending the life of the Civil Rights Commission for one year, be taken from the Speaker's table and agreed to.

The motion and the resolution were agreed to.(9)

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9. *Id.* at pp. 18863, 18864.

CHAPTER 23

Motions

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Motions

A. INTRODUCTORY

§ 1. In General

The term "motion" refers generally to any formal proposal made before a deliberative assembly. This chapter covers the general and more frequently used motions, which are often referred to as secondary motions. Secondary motions are those motions that are used to dispose of the main proposition under consideration. The motion to adjourn (including the motion to adjourn to a day certain) which enjoys the highest privilege in the House, and certain procedural motions, such as the motion to discharge a committee, and the motion to suspend the rules, are treated in other chapters in this work.(1)

Secondary motions are dependent on a main question or proposition for their existence and therefore may be offered only when a question is under consideration or debate.(2)

All motions must conform to all procedural requirements set forth in the House rules. Thus, a Member offering a motion must rise to his feet and address the Chair; and a motion must be reduced to writing when so demanded by a Member.(3)

A motion may be withdrawn in the House or in the House as in Committee of the Whole as a matter of right unless the House has taken some action thereon, such as ordering the yeas and nays, or demanding or ordering of the previous question, or adopting an amendment thereto.(4) Withdrawal of a motion in the Committee of the Whole generally requires unanimous consent.(5)

Under the current practice of the House, after a motion is formally pending all modifications of the motion, if in order at all, must be approved by the House. There is one narrow exception to this general principle, discussed in more detail in Chapter 21, section 28, supra, where a resolution is offered as a question of privilege and can be withdrawn by the offeror at any time before action is taken thereon and again offered as privileged immediately thereafter. Precedent(6) indicates that in that context the offeror can accept certain "friendly amendments" or modifications of his resolution without the concurrence of the House. This simply reflects the unique circumstances which adhere to a resolution raising a question of privilege: the resolution can be withdrawn at will, modified and resubmitted if still privileged, and the House has recognized the right of the proponent to modify the resolution while it is pending.

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(1) See Ch. 18 (Motions to Discharge Committees), Ch. 21 (Motions to Suspend the Rules), supra; and Ch. 27 (Motions to Strike, and to Strike Out and Insert), Ch. 32 (Motions regarding House-Senate Relations), Ch. 33 (Motions to Instruct House conferees), and Ch. 40 (Motions to Adjourn), infra.

(2) Rule XVI clause 4, *House Rules and Manual* § 782 (1981).

(3) Rule XVI clause 1, *House Rules and Manual* § 775 (1981).

(4) See Rule XVI clause 2, *House Rules and Manual* § 776 (1981).

(5) See § 2.10, infra.

In most cases, however, the right of withdrawal and resubmission in a modified form does not exist. A resolution, if a privileged report, may not be modifiable except by direction of the reporting committee or with concurrence of the House. In the case of a motion, the proponent may not be guaranteed the right to immediately reoffer the motion, especially where it is a secondary motion under Rule XVI clause 4(7) which may properly be offered only at certain times, as when a main question is pending. Thus, while an amendment to a motion pending in the House may be withdrawn by the Member offering the amendment before it is acted upon, he is not guaranteed the right to reoffer that amendment, and therefore he does not have the right to modify the amendment without the consent of the House. In the Committee of the Whole amendments can be withdrawn only by unanimous consent, so the doctrine of modification is never applicable in that forum. Other secondary motions to postpone to a day certain or to refer, while susceptible to modification, and capable of withdrawal prior to action thereon, may for the same reason not be modified without the consent of the House. The other secondary motions specified under Rule XVI clause 4 are not susceptible to modification—such as the motions to lay on the table, for the previous question, and to postpone indefinitely. The motion to adjourn to a day and time certain is only in order at the Speaker's discretion and is therefore subject to modifi-

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6. See 5 Hinds' Precedents § 5358.

7. *House Rules and Manual* § 782 (1981).

cation by the offeror only with the consent of the House.

Effect of House Agreement to Motion

§ 1.1 Where a motion not in order under the rules of the House is, without objection, considered and agreed to, it controls the procedure of the House until carried out, unless the House takes affirmative action to the contrary.

On the legislative day of Oct. 8, 1968,(8) the House had continued into the next calendar day due to 33 quorum calls, the effect of which had been to delay the reading and approval of the Journal. After Mr. Carl Albert, of Oklahoma, moved still another call of the House, a Member moved that those not present be sent for and compelled to remain present until the completion of pending business:

> MR. [BROCK] ADAMS [of Washington]: Mr. Speaker, as part of the motion of a call of the House, I further move under rule II,(9) under which a call of the House is in order, that a motion be made for the majority here that those who are not present be sent for whereever they are found and returned here on the condition that they shall not be allowed to leave the Chamber until such time as the pending business before this Chamber on this legislative day shall have been completed.
>
> THE SPEAKER:(10) The question is on the motion offered by the gentleman from Washington [Mr. Adams].
>
> The motion was agreed to.
>
> The Clerk proceeded to call the roll.
>
> MR. [LESTER L.] WOLFF [of New York]: Mr. Speaker, a point of order.
>
> THE SPEAKER: The Chair will state to the gentleman from New York that there is a quorum call underway and it cannot be interfered with.
>
> MR. WOLFF: Mr. Speaker, I make a point of order on the quorum call.
>
> THE SPEAKER: The gentleman makes a point of order?
>
> MR. WOLFF: Yes, Mr. Speaker. The doors are not locked.
>
> THE SPEAKER: The Sergeant at Arms will lock the doors, and the Clerk will call the roll.
>
> The Clerk called the roll. . . .
>
> THE SPEAKER: On this rollcall 222 Members have answered to their names, a quorum.
>
> MR. ALBERT: Mr. Speaker, I move that further proceedings under the call be dispensed with.
>
> THE SPEAKER: The question is on the motion offered by the gentleman from Oklahoma.
>
> The motion was agreed to. . . .

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8. 114 CONG. REC. 30212-14, 90th Cong. 2d Sess., Oct. 9, 1968 (Calendar Day).
For a further discussion of quorum calls, see Ch. 20, supra.

9. Mr. Adams apparently intended to cite clause 2 of Rule XV, not Rule II.

10. John W. McCormack (Mass.).

Mr. [William E.] Brock [3d, of Tennessee]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Brock: Am I to understand, if further proceedings under the call have been dispensed with, according to the last motion, it is correct that the doors of the House are now open?

The Speaker: The Chair is awfully glad the gentleman made that parliamentary inquiry, because the Chair intended to read for the benefit of the Members the motion made by the gentleman from Washington [Mr. Adams]:

> Mr. Speaker, as a part of the motion of a call of the House, I further move under rule II, under which a call of the House is in order, that a motion be made for the majority here that those who are not present be sent for wherever they are found and returned here on the condition that they shall not be allowed to leave the Chamber until such time as the pending business before this Chamber on this legislative day shall have been completed.

The motion was adopted; and in accordance with that motion no Member can leave the Chamber until the pending business before the House has been disposed of; and the pending business is the reading and approval of the Journal of the preceding session.

Mr. Gerald R. Ford [of Michigan]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. Gerald R. Ford: Let me repeat the language of the motion of the gentleman from Washington:

> That a motion be made for the majority here that those who are not present be sent for wherever they are found and returned here on the condition that they shall not be allowed to leave the Chamber until such time as the pending business before this Chamber on this legislative day shall have been completed.

Mr. Speaker, I respectfully argue that in the language used by the gentleman from Washington in the motion that he made, he says very specifically and very categorically that those who are not here are the ones who must be kept in the Chamber.

Mr. [John D.] Dingell [of Michigan]: Mr. Speaker, I demand the regular order.

The Speaker: The regular order is that the gentleman is making a parliamentary inquiry.

Mr. Gerald R. Ford: And I am indicating, Mr. Speaker, in my parliamentary inquiry, that the doors to the Chamber shall not be closed to those Members who were here at the time of the call for the quorum.

The Speaker: The Chair, in response to the parliamentary inquiry of the distinguished minority leader, feels in construing the motion, that a part of the construction is the happenings of the last 10 or 12 or more hours and the intent and purpose of the gentleman from Washington in making the motion.

It seems to the Chair, in response to the parliamentary inquiry—and the Chair makes such a response—that the motion offered by the gentleman from Washington [Mr. Adams] meant that any Member who answered the last quorum call cannot leave the Chamber until the pending business has been disposed of; and the doors will be kept closed.

The Chair might observe in relation to any future points of order that a quorum is not present that apparently a quorum is present because the last one disclosed 222 Members and the Chair is justified in assuming that the 222 Members are still here. The doors will remain locked until the present business is disposed of.

Mr. Brock: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Brock: Is it not so that the rules of the House provide for the highly unusual procedure of calling in absent Members only in the case of the establishment of a nonquorum? Is that not true? And was the motion not illegal and improper on its face, having been made prior to the establishment of no quorum?

The Speaker: The Chair will observe that we can always attempt to have Members attend who are not present at this time or actually in the Chamber at some particular time. Further, the Chair might also observe that every effort is being made on the Democratic side in connection with notifying Members of the situation that has existed for the past 12 or so hours.

Mr. Brock: But the parliamentary inquiry, Mr. Speaker, was to the question of whether or not the motion was in fact outside the normal rules of the House.

Mr. Albert: Mr. Speaker, will the Chair yield?

The Speaker: Does the gentleman from Oklahoma desire to be heard on the parliamentary inquiry of the gentleman from Tennessee?

Mr. Albert: The gentleman from Oklahoma would only suggest if a point of order would have been eligible as against the motion made by the distinguished gentleman from Washington, it certainly has come too late in view of the action of the House.

The Speaker: The Chair will state without passing on the question as to whether or not a point of order would lie if made at the proper time when the gentleman from Washington made his motion, that after the motion had been adopted no point of order was made. Therefore, the motion expressing the will of the majority of the Members present will be adhered to.

Does the gentleman from Ohio have a point of order?

Mr. [Robert] Taft [Jr., of Ohio]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Taft: As has just been pointed out by the gentleman from Tennessee, the provisions for restricting the freedom of Members under the House rules is solely under the rules relating to a situation in which there is no quorum, I believe. My inquiry is this: If the House attempts in any other circumstances, circumstances not necessary to the business of the House, to restrict the freedom of the Members to pass in or out of the Chamber or anywhere else that they care to pass, do they not under the Constitution and the laws of the United States constitute a violation of the civil liberties of the Members?

The Speaker: The Chair could observe that there are civil liberties of others involved. The House has acted. A majority of the House has spoken for this motion and, without getting into any long discussion, the motion on the pending business which is before the House is binding on the Speaker and the Members of the House.

Effect of Defeat of Essential Motion

§ 1.2 When an essential motion made by the Member in charge of a bill or resolution is decided adversely the right to prior recognition passes to the Member leading the opposition to the motion.

On Feb. 20, 1952,(11) James P. Richards, of South Carolina, Chairman of the Committee on Foreign Affairs, offered House Resolution 514, dealing with agreements or understandings between the President of the United States and the Prime Minister of Great Britain. The following took place:

> MR. RICHARDS: Mr. Speaker, I move that the resolution be laid on the table. . . .
>
> THE SPEAKER:(12) . . . The question is on the motion of the gentleman from South Carolina.
>
> The question was taken, and the Speaker announced that the noes appeared to have it.
>
> MR. RICHARDS: Mr. Speaker, on that I demand the yeas and nays.
>
> The yeas and nays were ordered.
>
> The question was taken; and there were—yeas 150, nays 184, not voting 97. . . .
>
> So the motion was rejected. . . .
>
> MR. [JOHN M.] VORYS [of Ohio]: Mr. Speaker——
>
> THE SPEAKER: For what purpose does the gentleman from Ohio rise?
>
> MR. VORYS: Mr. Speaker, I ask for recognition on the resolution, House Resolution 514.
>
> THE SPEAKER: The gentleman is recognized for 1 hour.
>
> MR. RICHARDS: Mr. Speaker, will the gentleman yield for a parliamentry inquiry?
>
> MR. VORYS: Gladly.
>
> MR. RICHARDS: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. RICHARDS: Would the Speaker explain the parliamentary situation as to who is in charge of the time?
>
> THE SPEAKER: The gentleman from Ohio is in charge of the time, the gentleman being with the majority in this instance, and on that side of the issue which received the most votes. The gentleman from Ohio is recognized.(13)

§ 2. Offering, Modifying, and Withdrawing Motions; Form

Oral or Written Motions

§ 2.1 Every motion must be reduced to writing on demand of any Member.

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(11) 98 CONG. REC. 1205–07, 1215, 1216, 82d Cong. 2d Sess.

(12) Sam Rayburn (Tex.).

(13) See also 72 CONG. REC. 9912-14, 71st Cong. 2d Sess., June 2, 1930.

On July 23, 1942,(14) the House was considering H.R. 7416, absentee voting in time of war by members of the armed forces. The following took place:

> Mr. [John E.] Rankin of Mississippi: Mr. Chairman, I move to strike out the enacting clause and ask unanimous consent that I may proceed for 5 additional minutes.
>
> Mr. [John J.] Cochran [of Missouri]: Mr. Chairman, I make the point of order that the gentleman is not complying with the rule and presenting his motion in writing.
>
> The Chairman:(15) The rule requires that such a motion must be in writing.(16)

Modifying Motion to Conform to Rules

§ 2.2 The Chairman of the Committee of the Whole pointed out that a motion before the Committee was not in proper form and then, when the proponent of the motion had modified it to conform to the rules, put the question thereon.

On Dec. 12, 1969,(17) the House was considering H.R. 12321, economic opportunity amendments of 1969. A motion to close debate was then made:

> Mr. [William H.] Ayres [of Ohio]: Mr. Chairman, I move that all debate on the substitute amendment and all amendments thereto close at 6 o'clock with the last 5 minutes reserved to the committee.
>
> The Chairman:(18) The matter of the last 5 minutes being reserved to the committee may not be included in the motion.
>
> Mr. Ayres: Mr. Chairman, I withdraw that portion of the motion.
>
> The Chairman: The question is on the motion of the gentleman from Ohio (Mr. Ayres).
>
> The question was taken; and on a division (demanded by Mr. Ottinger) there were—ayes 124, noes 35.
>
> So the motion was agreed to.

Statement of Motion

§ 2.3 The motion as stated by the Chair in putting the question and not as stated by the Member in offering the motion, is the proposition voted upon.

On Mar. 26, 1965,(19) the Committee of the Whole was considering H.R. 2362, the Elementary and Secondary Education Act of 1965 when a misunderstanding arose as to the wording of a motion offered by Mr. Adam C. Powell, of New York. Richard

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14. 88 Cong. Rec. 6561, 77th Cong. 2d Sess.
15. Jere Cooper (Tenn.).
16. See also 76 Cong. Rec. 4195, 4196, 72d Cong. 2d Sess., Feb. 15, 1933.
17. 115 Cong. Rec. 38844, 91st Cong. 1st Sess.
18. John J. Rooney (N.Y.).
19. 111 Cong. Rec. 6101, 89th Cong. 1st Sess.

Bolling, of Missouri, Chairman of the Committee of the Whole, attempted to state the motion as he understood it.

> THE CHAIRMAN: The Chair will state the motion as the Chair understood it. The Chair will say frankly the Chair had a little difficulty hearing it, but my understanding of the motion was that the chairman of the committee moved that all debate and all amendments to section 203 be closed in 5 minutes. . . .
>
> MR. [CRAIG] HOSMER [of California]: In the event that the motion is carried, if put, would the motion carried be that which was actually made by the gentleman from New York, or according to the record as reported, or would it be the motion as stated by the Chair?
>
> THE CHAIRMAN: The motion will be as stated by the Chair, as was the case yesterday and is the case today.(20)

Restating and Rereading Motions

§ 2.4 Where there is a misunderstanding about the wording of a pending motion, the Chair may restate the motion; but it is not the practice to ask that the motion be reread by the reporter.

On Mar. 26, 1965,(21) during debate in the Committee of the Whole on H.R. 2362, the Elementary and Secondary Education Act of 1965, several Members sought to have the Chair clarify a motion offered by Mr. Adam C. Powell, of New York.

> MR. [PORTER] HARDY [Jr., of Virginia]: Mr. Chairman, will the Chair state the motion as originally made?
>
> MR. GERALD R. FORD [of Michigan]: Mr. Chairman, a parliamentary inquiry. At the time that the gentleman from New York made the motion his voice was inaudible. I strongly feel that the motion that he made should be reread and read loud.
>
> THE CHAIRMAN:(1) The Chair will attempt to state how he understood it. It may be in error.
>
> MR. GERALD R. FORD: Mr. Chairman, I ask that the reporter read what the Chairman said so we can all hear it. It would be very helpful.
>
> THE CHAIRMAN: The gentleman from Michigan, the distinguished minority leader, is putting the Chair in the same position he had him in a little while ago. This goes straight, head on, into all of the practices and procedures of the House to have the reporter report a motion.
>
> MR. GERALD R. FORD: Mr. Chairman, I withdraw my request.
>
> THE CHAIRMAN: The Chair will state the motion as the Chair understood it. The Chair will say frankly the Chair had a little difficulty hearing it, but [the Chair's] understanding of the motion was that the chairman of the committee moved that all debate and

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20. See also 111 CONG. REC. 6016, 6020, 89th Cong. 1st Sess., Mar. 25, 1965.

21. 111 CONG. REC. 6101, 89th Cong. 1st Sess.

1. Richard Bolling (Mo.).

all amendments to section 203 be closed in 5 minutes.

§ 2.5 A pending motion may be reread, by unanimous consent, even though all time for debate thereon may have expired.

On Sept. 12, 1967,(2) the House was debating the Senate amendments in disagreement to H.R. 10738, Defense Department appropriations for fiscal 1968. The following then occurred:

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Mahon moves that the House insist upon its disagreement to Senate amendment numbered 18.

PREFERENTIAL MOTION OFFERED BY MR. SIKES

MR. [ROBERT L. F.] SIKES [of Florida]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Mr. Sikes moves that the House recede from its disagreement to the amendment of the Senate numbered 18 and concur therein.

THE SPEAKER PRO TEMPORE:(3) The gentleman from Texas [Mr. Mahon] is recognized for 1 hour. . . .

THE SPEAKER:(4) All time has expired.

MR. GERALD R. FORD [of Michigan]: Mr. Speaker, I ask unanimous consent that the preferential motion of the gentleman from Florida be reread before the vote is taken.

THE SPEAKER: Without objection, it is so ordered.

There was no objection.

Withdrawal of Motions in the House

§ 2.6 In the House a motion may be withdrawn as a matter of right and unanimous consent is not required.

On June 22, 1943,(5) the House was debating Senate amendments in disagreement to H.R. 2481, the agriculture appropriation bill of 1944. The following occurred:

MR. [MALCOLM C.] TARVER [of Georgia]: Mr. Speaker, I withdraw the motion which was formerly made with reference to amendments 12 and 14 and submit other amendments stating the correct amounts of the totals, which are on the Clerk's desk.

MR. [EARL C.] MICHENER [of Michigan]: I object to that, Mr. Speaker. The gentleman asked to withdraw a motion, and he can do that only by unanimous consent.

THE SPEAKER PRO TEMPORE:(6) The Chair will state that in the House a

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2. 113 CONG. REC. 25201, 25211, 90th Cong. 1st Sess.
3. Carl Albert (Okla.).
4. John W. McCormack (Mass.).
5. 89 CONG. REC. 6284 78th Cong. 1st Sess.
6. Fritz G. Lanham (Tex.).

motion may be withdrawn as a matter of right.

§ 2.7 A motion may be withdrawn in the House before action is taken thereon.

On Dec. 11, 1969,(7) the House was debating the appointment of conferees on H.R. 13270, the Tax Reform Act of 1969. Wilbur D. Mills, of Arkansas, Chairman of the House Committee on Ways and Means, sought unanimous consent to disagree to the Senate amendments and agree to a conference requested by the Senate. Mr. Charles A. Vanik, of Ohio, sought to offer a preferential motion:

> Mr. Vanik: Mr. Speaker, I offer a preferential motion.
>
> The Clerk read as follows:
>
> > Mr. Vanik moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill H.R. 13270 be instructed to insist on the House provisions relating to the oil and gas depletion allowance and to provide tax relief by way of increased dependency exemptions.
>
> Mr. Vanik: Mr. Speaker, I would like to be heard on my motion.
>
> The Speaker Pro Tempore:(8) The gentleman from Ohio is recognized.
>
> Mr. Vanik: Mr. Speaker, I offer this motion to instruct the conferees in order to assure that the managers on the part of the House will stand by the House provisions on oil and gas depletion—which the Ways and Means Committee reduced to 20 percent—along with elimination of the foreign depletion allowance.

At this point, Mr. Mills assured Mr. Vanik that the conferees would uphold the position of the House, and argued that Mr. Vanik's motion would limit the discretion of the conferees to agree to some desirable Senate amendments.

> Mr. Vanik: Mr. Speaker, I want to thank my distinguished chairman. The conferees and managers on the part of the House have our best wishes, and I ask that they speak for the average taxpayers of America who need to get some relief out of this tax program which will be before the conference.
>
> Mr. Speaker, I withdraw my motion.

§ 2.8 A motion to suspend the rules and pass a bill was, by unanimous consent, withdrawn after a second was ordered, there had been debate on the motion, and the Speaker had put the question on its adoption.

On May 6, 1963,(9) the House was debating H.R. 101, relating to the definition of peanuts under the Agricultural Act. The following then took place:

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(7) 115 Cong. Rec. 38543–45, 91st Cong. 1st Sess.

(8) Carl Albert (Okla.).

(9) 109 Cong. Rec. 7813, 7815, 88th Cong. 1st Sess.

> Mr. [Donald R.] Matthews [of Florida]: Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 101) to extend for 2 years the definition of "peanuts" which is now in effect under the Agricultural Adjustment Act of 1938. . . .
>
> The Speaker:(10) Is a second demanded?
>
> Mr. [Paul] Findley [of Illinois]: Mr. Speaker, I demand a second.
>
> The Speaker: Without objection, a second will be considered as ordered.
>
> There was no objection. . . .
>
> The Speaker: The question is on the motion of the gentleman from Florida that the House suspend the rules and pass the bill.
>
> Mr. [Carl] Albert [of Oklahoma]: Mr. Speaker, I ask unanimous consent that the motion to suspend the rules and call up the bill under consideration be withdrawn.
>
> The Speaker: Is there objection to the request of the gentleman from Oklahoma?
>
> There was no objection.

Parliamentarian's Note: Unanimous consent is not required, until a second is ordered, to withdraw a motion to suspend the rules.

§ 2.9 Unanimous consent to withdraw a motion in the House is required where the yeas and nays have been ordered on the motion.

On July 9, 1970,(11) the House was debating H.R. 15628, the Foreign Military Sales Act of 1970. Mr. Donald W. Riegle, Jr., of Michigan, moved that the House instruct its conferees to agree to a Senate amendment. The following took place:

> Mr. [Wayne L.] Hays [of Ohio]: Mr. Speaker, I offer a motion to table.
>
> The Clerk read as follows:
>
> > Mr. Hays moves to lay on the table the motion offered by Mr. Riegle.
>
> The Speaker:(12) The question is on the motion offered by the gentleman from Ohio (Mr. Hays) to lay on the table the motion offered by the gentleman from Michigan (Mr. Riegle).
>
> Mr. [Sidney R.] Yates [of Illinois]: Mr. Speaker, on that I demand the yeas and nays.
>
> The yeas and nays were ordered.
>
> Mr. Hays: Mr. Speaker, I have been prevailed upon to attempt to withdraw my motion on the understanding that there will be some equal division of time, and if it is not too late I would ask unanimous consent to withdraw my motion to lay on the table the motion offered by the gentleman from Michigan (Mr. Riegle).
>
> The Speaker: Is there objection to the request of the gentleman from Ohio?
>
> Mr. [William J.] Scherle [of Iowa]: Mr. Speaker, I object.

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10. John W. McCormack (Mass.).

11. 116 Cong. Rec. 23524, 23525, 91st Cong. 2d Sess.

12. John W. McCormack (Mass.).

Mr. [Durward G.] Hall [of Missouri]: Mr. Speaker, I object.

The Speaker: Objection is heard.

Withdrawal of Motions in Committee of the Whole

§ 2.10 A motion may be withdrawn in the Committee of the Whole only by unanimous consent.

On Mar. 26, 1965,[13] the Committee of the Whole was debating H.R. 2362, the Elementary and Secondary Education Act of 1965. Mr. Adam C. Powell, of New York, attempted to clarify a previous motion he had offered to limit the time for debate and also limit the offering of amendments to the bill.

> Mr. Powell: I withdraw the previous motion. I move all debate and all amendments on this title and this section close in 10 minutes.
>
> Mr. [Porter] Hardy [Jr., of Virginia]: Mr. Chairman, I ask that the original motion be read.
>
> Mr. [John M.] Ashbrook [of Ohio]: Mr. Chairman, a point of order. I want to know whether or not it takes unanimous consent to withdraw the motion.
>
> The Chairman:[14] The gentleman from New York asks unanimous consent to withdraw the motion.
>
> Mr. Powell: That is right. I withdraw it. I ask unanimous consent to withdraw it.
>
> Mr. Ashbrook: Mr. Chairman, I object.

§ 3. Precedence of Motions

In general, recognition to offer a motion is at the discretion of the Chair, subject to the House rules and precedents pertaining to several motions which establish priorities of recognition. These will be discussed later in this chapter in the sections that deal with each motion.

Priority of Motion of Higher Privilege

§ 3.1 A Member having the floor to offer a motion may move the previous question thereon although another claims recognition to offer a motion of higher privilege; but the motion of higher privilege must be put before the previous question.

On Sept. 13, 1965,[15] Mr. Carl Albert, of Oklahoma, interrupted the Clerk's reading of the Journal.

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[13] 111 Cong. Rec. 6101, 89th Cong. 1st Sess.

[14] Richard Bolling (Mo.).

[15] 111 Cong. Rec. 23600, 23601, 89th Cong. 1st Sess.

Mr. Albert: Mr. Speaker, I move that the Journal be approved as read; and on that I move the previous question.

Mr. [Durward G.] Hall [of Missouri]: Mr. Speaker, I move that that motion be laid on the table; and I offer an amendment to the Journal.

The Speaker:(16) The Chair will state that the motion to lay on the table is in order, but the amendment is not in order.

What is the motion of the gentleman from Missouri?

Mr. Hall: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Hall: Mr. Speaker, during the reading of the Journal, section by section, I asked at what time it might be amended; and if I understood the distinguished Speaker correctly he said that if such an amendment were submitted by the gentleman from Missouri or any other person at any time it would be in order at the end of the reading of the Journal.

The Speaker: The gentleman from Missouri has a correct recollection of what the Chair said at that time. However, the gentleman from Oklahoma [Mr. Albert] has made a motion that the Journal as read be approved and upon that he has moved the previous question.

Mr. Hall: Then, Mr. Speaker, I move to table that motion.

The Speaker: The question is on the motion to lay on the table.

§ 4. Dilatory Motions

Discretion of Chair

§ 4.1 The determination of whether a motion is dilatory is entirely within the discretion of the Chair.

On May 16, 1938,(17) the consideration of an omnibus claims bill was interrupted by a parliamentary inquiry.

Mr. [John J.] Cochran [of Missouri]: Mr. Speaker, I rise to submit a parliamentary inquiry.

The Speaker Pro Tempore:(18) The gentleman will state it.

Mr. Cochran: The Chair has stated that tomorrow an omnibus claims bill will be called up. I recall that the last time that an omnibus claims bill was called up a Member rose and moved to strike out a certain title which, of course, was permissible under the rule. However, after he had moved to strike out the title and was recognized, he immediately stated that he did not propose to insist upon his motion, but that he offered the motion for the purpose of giving the House some information relative to the title under consideration. As I understand the spirit of the rule, there shall be 5 minutes granted in opposition to the title and 5 minutes in favor of the title, each bill being a separate title. It seems to me that the spirit of the rule was violated on that occasion, because there were two speeches of 5 minutes each in favor of the title or bill, and no speech in oppo-

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16. John W. McCormack (Mass.).

17. 83 Cong. Rec. 6938, 75th Cong. 3d Sess.

18. Sam Rayburn (Tex.).

sition to the title. My parliamentary inquiry is whether a point of order would lie against the motion of a Member to strike out the title when, as a matter of fact, the Member was not in favor of striking out the title.

THE SPEAKER PRO TEMPORE: The present occupant of the Chair would have no way of reading a Member's mind or questioning his motives with reference to any amendment that he might offer. The Chair thinks that any Member who gained the floor to offer any permissible amendment would be in order and he would be entitled to the floor.

MR. COCHRAN: It was certainly a violation of the spirit of the rule when one offers an amendment to strike out a title and then in the first sentence after recognition says that he is not going to insist upon his motion and consumes 5 minutes that should be allowed in opposition to the title.

THE SPEAKER PRO TEMPORE: The rule interpreted otherwise would make it pretty hard on the occupant of the chair.

MR. [CASSIUS C.] DOWELL [of Iowa]: Where it becomes apparent to the Chair that a motion is made for the purpose of delay, then a point of order may be made and would be sustained, would it not?

THE SPEAKER PRO TEMPORE: The present occupant of the chair understands that the determination of whether a motion is dilatory is entirely within the discretion of the Chair.

Intent to Delay

§ 4.2 On one occasion the Speaker announced that he would not hold a motion to be dilatory until it became obvious that dilatory tactics were being indulged in and that a filibuster was being conducted.

On July 25, 1949,(19) the House sought consideration of H.R. 3199, a federal anti-poll tax act, by utilizing for the first time the so-called 21-day rule to bring this bill to the House from the Committee on Rules. The following occurred:

MRS. [MARY T.] NORTON [of New Jersey]: Mr. Speaker, pursuant to clause 2(c) of rule XI, I call up House Resolution 276, which has been pending before the Committee on Rules for more than 21 calendar days without being reported.

THE SPEAKER:(20) The Clerk will report the resolution.

The Clerk read as follows:

> *Resolved,* That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3199) making unlawful the requirement for the payment of a poll tax as a prerequisite to voting in a primary or other election for national officers and for other purposes, and all points of order against said bill are hereby waived. That after general debate, which shall be confined to the bill and continue not to exceed 2 hours, to be equally divided and controlled by the chairman and the ranking minority

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19. 95 CONG. REC. 10095, 10096, 81st Cong. 1st Sess.

20. Sam Rayburn (Tex.).

> member of the Committee on House Administration, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. . . .

MRS. NORTON: . . . Mr. Speaker, I move the previous question on the adoption of the rule.

THE SPEAKER: The question is on ordering the previous question.

MR. [JAMES C.] DAVIS of Georgia: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 262, nays 100, not voting 70. . . .

THE SPEAKER: The question is on agreeing to the resolution.

MR. [ROBERT L. F.] SIKES [of Florida]: Mr. Speaker, I move that the House do now adjourn.

THE SPEAKER: The gentleman from Florida moves that the House do now adjourn.

The Chair desires to make a statement. Since the present Speaker has occupied the chair he has yet to hold a motion to be dilatory, and will not until it becomes obvious to everybody that dilatory tactics are being indulged in and that a filibuster is being conducted.

§ 4.3 The Chair overruled the point of order that a motion to strike out the enacting clause of a bill was dilatory where the Member offering the motion stated that he was opposed to the bill.

On Mar. 30, 1950,(1) the House was considering H.R. 7797, to provide foreign economic assistance. The following took place:

MR. [JAMES G.] FULTON [of Pennsylvania]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Fulton moves that the Committee do now rise and that the bill be reported to the House with the enacting clause stricken.

MR. [FRANK B.] KEEFE [of Wisconsin]: Mr. Chairman, a point of order.

THE CHAIRMAN:(2) The gentleman will state it.

MR. KEEFE: Mr. Chairman, I make the point of order against the preferential motion that it is dilatory. The gentleman from Pennsylvania is not opposed to this bill and is not in good faith asking that the enacting clause be stricken out; he is advocating this bill vehemently and is simply taking this means to get 5 minutes time when many others of us have been waiting for 2 days trying to get time, but in vain.

THE CHAIRMAN: The Chair would like to inquire of the gentleman from Pennsylvania [Mr. Fulton] if he is opposed to the bill?

MR. FULTON: In its present form I would be opposed to it.

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1. 96 CONG. REC. 4424, 81st Cong. 2d Sess.
2. Oren Harris (Ark.).

THE CHAIRMAN: The Chair must accept the statement of the gentleman from Pennsylvania.

The Chair overrules the point of order and recognizes the gentleman from Pennsylvania in support of his preferential motion.

§ 4.4 After stating that, "one of the greatest responsibilities the Chair could assume would be to hold that motions are dilatory," the Speaker ruled that a motion to adjourn was not dilatory.

On June 5, 1946,(3) a Calendar Wednesday, several quorum calls had delayed reaching the Committee on Labor preventing a federal employment practices bill from being called up. After the House voted to dispense with further proceedings under a call of the House, Mr. L. Mendel Rivers, of South Carolina, moved that the House adjourn.

MR. RIVERS: MR. Speaker, I move that the House do now adjourn.

MR. [CHRISTIAN A.] HERTER [of Massachusetts]: Mr. Speaker, a point of order.

THE SPEAKER:(4) The gentleman will state it.

MR. HERTER: Mr. Speaker, the motion just made is a dilatory motion and I should like to be heard on it.

MR. RIVERS: Mr. Speaker, it is always in order to move to adjourn.

THE SPEAKER: The gentleman from Massachusetts has made a point of order and the Chair is going to hear him.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, I would like to be heard in opposition to the point of order.

THE SPEAKER: The gentleman from Massachusetts.

MR. HERTER: Mr. Speaker, in ruling on the point of order I realize fully that entire discretion is vested in the Chair in reaching a decision as to whether a motion is a dilatory motion or is not a dilatory motion.

At this point Mr. Rankin rose to a point of order that a quorum was not present and Mr. Howard W. Smith, of Virginia, moved a call of the House. The call was ordered and when taken indicated the presence of 290 Members. Mr. Graham A. Barden, of North Carolina, moved to dispense with further proceedings under the call and Mr. Thomas G. Abernethy, of Mississippi, demanded the yeas and nays. The motion was agreed to.

THE SPEAKER: The Chair recognizes the gentleman from Massachusetts [Mr. Herter] on a point of order.

MR. HERTER: Mr. Speaker, as I said at the outset, it is within your discretion to rule on this point of order and there can be no appeal from your ruling; however, in making that ruling, it is obvious that you will be guided by two matters: First, by the chain of circumstances which have led to the point of order being made, and, secondly, by the precedents that have

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3. 92 CONG. REC. 6352-56, 79th Cong. 2d Sess.
4. Sam Rayburn (Tex.).

been set by your predecessors in ruling under similar circumstances.

Insofar as the first is concerned, the circumstances that have led to this particular point of order being made are obvious to every Member of this House. For the last few Wednesdays this House has done no business whatsoever. It has clearly been prevented from doing business because certain Members wished to avoid having certain matters come up here for discussion. In other words, sir, as long as the calendar contains certain pieces of legislation that have been favorably reported by your duly constituted committees but have not been brought here under rule, they can only be brought up in this way, and as long as the Members of the House wish to avoid the calendar being reached they can delay action on those particular matters. We all know what they are. . . .

Mr. Herter: Mr. Speaker, the second point that I wish to emphasize is the question of precedents that have been set by your predecessors under circumstances very similar to those which we are facing here today. I am reading now direct quotations from Cannon's Precedents of the House of Representatives, volume 8, page 424. . . .(5)

The Speaker: The Chair is familiar with the rulings made by Speaker Gillett to which the gentleman from Massachusetts refers. One of the greatest responsibilities any occupant of the Chair could assume would be to hold that motions are dilatory. However, that is not to say that the present occupant of the Chair will not, under certain circumstances, hold motions to be dilatory. In the weeks to come and for the remainder of this day the Chair will scrutinize very carefully motions that are made.

The Chair is going to put the motion to adjourn.

§ 4.5 The first having been withdrawn, a second motion that the Committee of the Whole rise and report a bill back to the House with the recommendation that the enacting clause be stricken was held in order and not dilatory.

On May 3, 1949,(6) the Committee of the Whole was considering

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5. Mr. Herter cited 8 Cannon's precedents § 2813, where a motion to adjourn had been ruled out as dilatory. In that situation, Speaker Frederick H. Gillett (Mass.) in ruling out a motion to adjourn offered by Mr. Finis J. Garrett (Tenn.) stated: "In deciding what is dilatory the Chair thinks he should be very careful, because his decision is final; but, on the other hand, he does not think there can be any question in the minds of any of the Members of the House present that the purpose of the gentleman from Tennessee in making this motion is delay, and not the expectation or intention of accomplishing any other result by the motion. Therefore the Chair thinks that the motion is dilatory."

6. 95 Cong. Rec. 5531, 81st Cong. 1st Sess.

H.R. 2032, the National Labor Relations Act of 1949. The following occurred:

MR. [HALE] BOGGS [of Louisiana]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Boggs of Louisiana moves that the Committee do now rise and report the bill to the House with the recommendation that the enacting clause be stricken out.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, I make a point of order that that motion has just been voted down.

THE CHAIRMAN:[7] The gentleman is mistaken. The previous motion was withdrawn by unanimous consent.

MR. [JOSEPH W.] MARTIN [Jr.] of Massachusetts: Mr. Chairman, I make the point of order it is dilatory. Is the gentleman going to press his motion?

THE CHAIRMAN: The Chair overrules the point of order.

§ 4.6 The Speaker has, on a Calendar Wednesday, recognized the chairman of a committee to call up a bill in spite of repeated motions to adjourn, thereby inferentially holding such motions to be dilatory.

On Feb. 15, 1950,[8] the Clerk was calling the roll of the committees under the Calendar Wednesday rule. The following took place immediately after the rejection of several motions to adjourn:

THE SPEAKER:[9] The Clerk will call the committees.

The Clerk called the Committee on the District of Columbia.

MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The Chair does not yield to the gentleman for a parliamentary inquiry at this time.

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, I move that the House do not adjourn.

THE SPEAKER: The Clerk has called the Committee on the District of Columbia. The Chair recognizes the gentleman from South Carolina [Mr. McMillan].

MR. SMITH of Virginia: Mr. Speaker, I move that the House do now adjourn. That motion is always in order.

THE SPEAKER: The Chair has recognized the gentleman from South Carolina [Mr. McMillan].

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, I offer a preferential motion.

THE SPEAKER: The gentleman from South Carolina [Mr. McMillan] has been recognized.

MR. COLMER: Mr. Speaker, I move that the House do now adjourn.

THE SPEAKER: The gentleman from South Carolina [Mr. McMillan] has been recognized.

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[7] Jere Cooper (Tenn.).

[8] 96 CONG. REC. 1811, 1812, 81st Cong. 2d Sess.

[9] Sam Rayburn (Tex.).

Parliamentarian's Note: Repeated roll calls were sought on this day in an effort to delay business under the Calendar Wednesday rule and thus delay the call of the Committee on Education and Labor on the following Wednesday when a fair employment practice bill was to be called up.

Demand for Division

§ 4.7 A demand for a division vote after a voice vote was held not to be dilatory.

On May 14, 1930,(10) the Committee of the Whole was debating H.R. 2152, when a motion was offered to close all debate on a particular section and all amendments thereto in five minutes.

THE CHAIRMAN:(11) The question now is on the motion of the gentleman from Michigan to close all debate on this section and all amendments thereto in five minutes.

The question was taken, and Mr. [John C.] Schafer of Wisconsin demanded a division.

MR. [C. WILLIAM] RAMSEYER [of Iowa]: Mr. Chairman, I rise to a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. RAMSEYER: I make the point of order that the motion is dilatory.

THE CHAIRMAN: What motion does the gentleman refer to? The matter before the House is whether there shall be a division.

MR. RAMSEYER: It can be contended as dilatory. I refer the Chair to page 346 of the House manual, paragraph 10. Vote after vote has been taken here on these minor matters, and each has turned out about 2 to 1. [Cries of "Oh, no!"]

MR. [WILLIAM H.] STAFFORD [of Wisconsin]: Why, a change of 10 votes would have made the committee rise on the last vote.

THE CHAIRMAN: The Chair is ready to rule.

MR. RAMSEYER: I do not care to take up the time of the Chair to read the various decisions, but it covers almost everything—time to fix debate, a motion to rise, a motion to adjourn, demand for tellers. That has been held dilatory also, and so on through. I am not going to argue this particular point, but I shall insist on the Chair enforcing the rule against dilatory motions.

THE CHAIRMAN: The Chair is ready to rule.

MR. SCHAFER of Wisconsin: Mr. Chairman, I would like to be heard upon the point of order.

THE CHAIRMAN: The Chair will hear the gentleman.

MR. SCHAFER of Wisconsin: The request for a division is certainly not dilatory, particularly in view of the fact that on the vote by ayes and noes it would seem to any fair-minded person paying attention that there was a very close division in the committee. Furthermore, this is not a trivial matter. These motions have been made in order to close debate. Many statesmen or would-be statesmen talk much

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10. 72 CONG. REC. 8958, 71st Cong. 2d Sess.
11. Scott Leavitt (Mont.).

about freedom of speech when they are running for office, and then come here and try to cut off reasonable debate, in this important legislation, with steamroller tactics.

The Chairman: The Chair is ready to rule. The Chair finds nothing in the precedents to hold that a request for a division is dilatory. He does find a demand for tellers to have been held to be dilatory, but not a division. The point of order is overruled.

Time for Objection

§ 4.8 After the Speaker has entertained a motion that the House adjourn, it is too late to make the point of order that the motion is dilatory on the ground that the House rejected such a motion an hour previously.

On Feb. 22, 1950,(12) the House was proceeding with business under the Calendar Wednesday rule when Mr. Robert L. F. Sikes, of Florida, moved that the House adjourn.

The Speaker:(13) The gentleman from Florida [Mr. Sikes] moves that the House do now adjourn.

Mr. [Vito] Marcantonio [of New York]: Mr. Speaker, a point of order on the motion.

The Speaker: The gentleman will state it.

Mr. Marcantonio: Mr. Speaker, I submit the motion to adjourn is dilatory. While I recognize that intervening business has been transacted, such as voting on the motion to dispense with Calendar Wednesday business, it seems to me that the House has expressed its will on this matter about an hour ago and the House refused to adjourn. I think it is obvious to the Speaker that the House has refused to adjourn and the motion, therefore, is dilatory.

The Speaker: The Chair has already entertained the motion. The question is on the motion offered by the gentleman from Florida.

Parliamentarian's Note: See also Chapters 18, 21, and 17, supra, for discussion of prohibition against dilatory motions under the discharge rule (Rule XXVII clause 4), motions to suspend the rules (Rule XVI clause 8), and motions pending reports from the Committee on Rules (Rule XI clause 4(b)).

B. MOTIONS TO POSTPONE

§ 5. In General

There are two motions to postpone. One provides postponement to a day certain; the other postpones the matter in question

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12. 96 Cong. Rec. 2161, 81st Cong. 2d Sess.

13. Sam Rayburn (Tex.).

indefinitely. The adoption of a motion to postpone indefinitely constitutes a final adverse disposition of the measure to which it is applied. (See § 8.1, infra.) Each must be applied to the entire pending proposition, not to a part thereof.(14)

The motion to postpone to a day certain may be amended(15) and debated, although debate is limited to the advisability of postponement only and may not go to the merits of the proposition to be postponed.(16)

Neither motion to postpone is in order in the Committee of the Whole, but under special circumstances absent a special rule governing consideration of a bill for amendment under the five-minute rule, it has been held in order in the Committee of the Whole to move that a bill be reported to the House with the recommendation that action on it be postponed.(17)

The motion to postpone to a day certain may not specify a particular hour.(18) Business postponed to a day certain is in order on that day immediately following approval of the Journal and disposition of the business on the Speaker's table, but may be displaced by business of higher privilege.(1)

§ 6. When in Order

Effect of Ordering Previous Question

§ 6.1 The motion to postpone further consideration of a matter is not in order after the previous question has been ordered thereon.(2)

Postponement of Veto Message

§ 6.2 A privileged motion to postpone further consideration of a veto message to a day certain was made immediately following the reading of the message.

On June 23, 1970,(3) the President's veto message on H.R. 1102, the medical facilities construction and modernization amendments of 1970, was laid before the House:

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(14) 5 Hinds' Precedents § 5306.

(15) 8 Cannon's Precedents § 2824; 5 Hinds' Precedents § 5754.

(16) 8 Cannon's Precedents §§ 2372, 2616, 2640; and 5 Hinds' Precedents §§ 5311-5315.

(17) 8 Cannon's Precedents § 2372; 4 Hinds' Precedents § 4765.

(18) 5 Hinds' Precedents § 5307.

(1) 8 Cannon's Precedents § 2614.

(2) 8 Cannon's Precedents §§ 2616, 2617; and 5 Hinds' Precedents §§ 5319-5321.

(3) 116 CONG. REC. 20876, 20877, 91st Cong. 2d Sess.

> *To the House of Representatives:*
>
> I am returning without my approval H.R. 11102, the Medical Facilities Construction and Modernization Amendments of 1970. My reason for this veto is basic: H.R. 11102 is a long step down the road of fiscal irresponsibility, and we should not take that road. . . .
>
> In these times there is no room in this massive program—or in any other program—for the kind of needless and misdirected spending represented in H.R. 11102. I again call upon the Congress to join me in holding down Government spending to avoid a large budget deficit in fiscal year 1971.
>
> Richard Nixon.
>
> The White House, *June 22, 1970.*

The Speaker:(4) The objections of the President will be spread at large upon the Journal and the message and bill will be printed as a House document.

Mr. [Harley O] Staggers [of West Virginia]: Mr. Speaker, I move that further consideration of the veto message of the President be postponed until Thursday, June 25, 1970.

Mr. Speaker, the reason I ask for this postponement is to serve notice on all Members of the House and to give everyone an opportunity to study the veto message and to participate in what I think is a highly important matter.

Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The Speaker: The question is on the motion offered by the gentleman from West Virginia (Mr. Staggers).

The motion was agreed to.

A motion to reconsider was laid on the table.

Postponement of Resolution of Disapproval

§ 6.3 A resolution disapproving a President's alternative pay plan is subject to a motion in the House to postpone consideration thereof.

Parliamentarian's Note: 5 USC § 5305(j) makes in order motions to postpone consideration of such disapproval resolutions, either to a day certain or indefinitely. A motion to postpone would be in order either (1) pending the initial motion to consider the disapproval resolution; (2) upon adoption of a motion that the Committee of the Whole rise; or (3) after the Committee had risen and reported the resolution back to the House.

Postponement of Motion to Discharge

§ 6.4 When a motion to discharge a committee under Rule XXVII clause 4 is called up a motion to postpone consideration thereof to a day certain is not in order.

On Dec. 18, 1937,(5) the House was considering the petitions on

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4. John W. McCormack (Mass.).

5. 82 Cong. Rec. 1847, 75th Cong. 2d Sess.

the Discharge Calendar. The following took place:

> Mr. [Samuel B.] Pettengill [of Indiana]: Assuming that the gentleman from Indiana, or some other signer of the petition, were to call it up, would a motion to postpone to a day certain, being a second or fourth Monday, be in order?
>
> The Speaker:(6) Under the rules, it would not. The Chair directs the attention of the gentleman from Indiana to the discharge rule which clearly sets out that no intervening motion may take place except one motion to adjourn.

§ 7. Postponement to a Day Certain

Postponement of Veto Messages to a Day Certain

§ 7.1 The debatable motion to postpone further consideration of a veto message to a day certain is privileged and takes precedence over the pending question of passing the bill notwithstanding the objections of the President.

On Jan. 27, 1970,(7) the House was considering the veto message on H.R. 13111, the Labor and HEW appropriations for fiscal 1970. The following then took place:

> The Speaker Pro Tempore:(8) The objections of the President will be spread at large upon the Journal, and the message and bill will be printed as a House document.
>
> The question is: Will the House, on reconsideration, pass the bill H.R. 13111, the objections of the President to the contrary notwithstanding?
>
> The Speaker: The Chair recognizes the gentleman from Texas (Mr. Mahon).
>
> Motion Offered by Mr. Mahon
>
> Mr. [George H.] Mahon [of Texas]: Mr. Speaker, I move that further consideration of the veto message from the President be postponed until tomorrow.
>
> The Speaker Pro Tempore: The gentleman from Texas (Mr. Mahon) is recognized on his motion.

§ 7.2 A Member offering a motion to postpone further consideration of a veto message to a day certain may seek recognition to move the previous question thereon.

On June 23, 1970,(9) the House was considering the veto message on H.R. 11102, the medical facilities construction and modernization amendments of 1970, when a motion to postpone was offered:

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6. William B. Bankhead (Ala.).
7. 116 Cong. Rec. 1367, 1368, 91st Cong. 2d Sess.
8. Carl Albert (Okla.).
9. 116 Cong. Rec. 20877, 91st Cong. 2d Sess.

The Speaker:[10] The objections of the President will be spread at large upon the Journal and the message and bill will be printed as a House document.

Mr. [Harley O.] Staggers [of West Virginia]: Mr. Speaker, I move that further consideration of the veto message of the President be postponed until Thursday, June 25, 1970.

Mr. Speaker, the reason I ask for this postponement is to serve notice on all Members of the House and to give everyone an opportunity to study the veto message and to participate in what I think is a highly important matter.

Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The Speaker: The question is on the motion offered by the gentleman from West Virginia (Mr. Staggers).

The motion was agreed to.

§ 7.3 A veto message postponed to a day certain is the unfinished business on that day.

On Apr. 14, 1948,[11] the House resumed consideration of the veto message on H.R. 5052, dealing with the Social Security Act and the Internal Revenue Code. The proper order of business was announced by the Speaker:

The Speaker:[12] The Chair wishes to state the order of business.

The unfinished business is the further consideration of the veto message of the President of the United States on the bill (H.R. 5052) to exclude certain vendors of newspapers or magazines from certain provisions of the Social Security Act and the Internal Revenue Code.

The Speaker also indicated that when a veto message postponed to a day certain is announced as the unfinished business on that day, no motion is required from the floor for the consideration of such veto; the question "Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding" is the pending business:[13]

The Speaker: The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding? . . .

The Speaker: The gentleman from California [Mr. Gearhart] is recognized.

Mr. [Herman P.] Eberharter [of Pennsylvania]: Mr. Speaker, will the gentleman yield?

Mr. [Bertrand W.] Gearhart: I yield to the gentleman from Pennsylvania.

Mr. Eberharter: Has the gentleman made a motion to call up the bill?

Mr. Gearhart: The Parliamentarian advises me that is not necessary. The Speaker has already stated the issue.

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[10] John W. McCormack (Mass.).

[11] 94 Cong. Rec. 4427, 80th Cong. 2d Sess.

[12] Joseph W. Martin, Jr. (Mass.).

[13] 94 Cong. Rec. 4427, 4428, 80th Cong. 2d Sess.

Mr. Eberharter: I just wanted the record to be certain. I did not hear the gentleman make a motion to call up the bill.

Mr. Gearhart: I believe the gentleman's question has already been answered.

Mr. [John E.] Rankin [of Mississippi]: Mr. Speaker, if the gentleman will yield, the bill is before the House now automatically.

Mr. Eberharter: Mr. Speaker, will the gentleman yield for a parliamentary inquiry?

Mr. Gearhart: Gladly.

The Speaker: The Chair will state that he has already put the question, but he will repeat it if the gentleman desires.

Mr. Eberharter: No. I just want to have the record straight.

The Speaker: The veto message was originally read on April 6, and the request of the gentleman from California was that it be reread for the information of the House. Previous to that request the Chair had stated that the question before the House was, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The gentleman will proceed.

§ 8. Postponement for Indefinite Period

Rescinding Action of Both Houses

§ 8.1 The action of the two Houses in connection with the passage of a private bill was rescinded by a concurrent resolution setting forth such rescission and providing that the bill be postponed indefinitely.

On Feb. 7, 1952,(14) the House agreed to a Senate concurrent resolution rescinding the action of the two Houses on the bill S. 1236 for the relief of Kim Song Nore in view of the fact that the individual named in the bill had died.

Mr. [Francis E.] Walter [of Pennsylvania]: Mr. Speaker, I ask unanimous consent for the immediate consideration of Senate Concurrent Resolution 60, indefinitely postponing Senate bill 1236, for the relief of Kim Song Nore.

The Clerk read the Senate concurrent resolution, as follows:

> *Resolved by the Senate (the House of Representatives concurring),* That the action of the two Houses in connection with the passage of the bill (S. 1236) for the relief of Kim Song Nore be rescinded, and that the said bill be postponed indefinitely.

The Speaker:(15) Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

Parliamentarian's Note: The effect of a motion to postpone indefinitely is to finally dispose of the pending matter adversely. It

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14. 98 Cong. Rec. 934, 82d Cong. 2d Sess.
15. Sam Rayburn (Tex.).

is different from merely refusing to consider a matter at a particular time. The motion is not amendable, but the motion to postpone to a day certain takes precedence.

C. MOTIONS TO LAY ON THE TABLE

§ 9. In General; Application and Effect

The motion to lay on the table, also referred to as the motion to table, is used by the House to reach a final adverse disposition of a proposition.(16) The motion is not in order in the Committee of the Whole.(17)

The motion to lay on the table is of high privilege, but yields to a motion to adjourn.(18) The motion may not be made after the previous question has been ordered,(19) but is in order where the previous question has been moved. It may not be applied to a demand for the previous question(20) nor to motions to suspend the rules.(1)

The motion may not be applied to motions to recommit,(2) motions to go into the Committee of the Whole,(3) nor to any motion relating to the order of business.(4) It is generally not in order on motions which are neither debatable nor amendable.(5)

Most matters laid on the table may be taken therefrom only by unanimous consent(6) or by a motion to suspend the rules.(7) However, questions of privilege laid on the table may be taken from the table on a motion agreed to by the House(8) as may vetoed bills.(9)

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16. See §§ 9.1 et seq., infra.
17. See 8 Cannon's Precedents §§ 2330, 2556a, 3455; and 4 Hinds' Precedents §§ 4719, 4720.
18. Rule XVI clause 4, *House Rules and Manual* § 782 (1981).
19. See 8 Cannon's Precedents §§ 2655; 5 Hinds' Precedents §§ 5415–5422.
20. 5 Hinds' Precedents §§ 5410, 5411.
1. 5 Hinds' Precedents §§ 5405, 5406.
2. See 8 Cannon's Precedents § 2655; and 5 Hinds' Precedents §§ 5412–5414.
3. 6 Cannon's Precedents § 726.
4. 5 Hinds' Precedents §§ 5403, 5404.
5. Rule XVI clause 4, *House Rules and Manual* § 785 (1981).
6. See §§ 13.1, 13.2, infra.
7. 5 Hinds' Precedents § 6288.
8. 5 Hinds' Precedents § 5438.
9. 4 Hinds' Precedents § 3550; and 5 Hinds' Precedents § 5439.

When a proposed amendment is laid on the table the pending bill also goes to the table.(10) The result is the same when a Senate amendment to a House bill is laid on the table.(11) However, where one motion to dispose of a Senate amendment (with an amendment) is tabled, the bill and all Senate amendments do not automatically go to the table, as other motions remain available to dispose of that Senate amendment.

Effect on Pending Measure

§ 9.1 In response to a parliamentary inquiry, the Speaker stated that adoption of a motion to lay a resolution on the table would result in the final adverse disposition of the resolution.

On Dec. 14, 1970,(12) the House was considering House Resolution 1306, asserting the privileges of the House relative to the printing and publishing of a report of the Committee on Internal Security. Mr. Louis Stokes, of Ohio, offered a motion to table the resolution. The following then occurred:

Mr. [Albert W.] Watson [of South Carolina]: Mr. Speaker, a parliamentary inquiry.

The Speaker:(13) The gentleman will state it.

Mr. Watson: Mr. Speaker, if the motion to table prevails, there can be no further consideration at all of this matter. Is that not correct? Does it not apply the clincher?

The Speaker: If the motion to table is agreed to, then the resolution is tabled.

Mr. Watson: Then that ends it. All right.

Effect on Debate

§ 9.2 The motion to lay on the table may deprive a Member of recognition for debate on a resolution he has offered.

On Jan. 17, 1933,(14) Mr. Louis T. McFadden, of Pennsylvania, offered a resolution of impeachment against President Herbert Hoover. The following took place:

Mr. McFadden: During the opening I addressed the Speaker to ascertain whether or not I would be protected in one hour time for debate. I am prepared to debate. I understand a certain motion will be made which will deprive me of that right.

The Speaker:(15) The Chair can not control 434 Members of the House in the motions they will make. The Chair must recognize them and interpret the rules as they are written. That is what the Chair intends to do. The gentleman from Pennsylvania would have an opportunity to discuss this matter for an hour under the rules of the House, if some gentleman did not take him off his feet by a proper motion. [Applause.]

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(10) 8 Cannon's Precedents § 2656; and 5 Hinds' Precedents § 5423.

(11) 5 Hinds' Precedents § 5424.

(12) 116 Cong. Rec. 41372, 41373, 91st Cong. 2d Sess.

(13) John W. McCormack (Mass.).

(14) 76 Cong. Rec. 1968, 72d Cong. 2d Sess.

(15) John N. Garner (Tex.).

MR. MCFADDEN: That is what I was attempting to ascertain.

The Clerk concluded the reading of the resolution.

MR. [HENRY T.] RAINEY [of Illinois]: Mr. Speaker, I move to lay the resolution of impeachment on the table.

THE SPEAKER: The gentleman from Illinois moves to lay the resolution of impeachment on the table.

May the Chair be permitted to make a statement with reference to the rules applying to that motion. The parliamentarian has examined the precedents with reference to the motion. Speaker Clark and Speaker Gillette, under identical conditions, held that a motion to lay on the table took a Member off the floor of the House, although the general rules granted him one hour in which to discuss the resolution of impeachment or privileges of the House. Therefore the motion is in order.

Application of Motion to Appeals

§ 9.3 An appeal from a decision of the Speaker may be laid on the table.

On Aug. 13, 1937,(16) the House was considering the election contest of Roy v Jenks. After the Speaker(17) overruled a point of order against the privileged report filed by the elections committee, the following took place:

MR. [BERTRAND H.] SNELL [of New York]: Mr. Speaker, I respectfully appeal from the decision of the Chair.

THE SPEAKER: The gentleman from New York appeals from the decision of the Chair.

MR. [SAM] RAYBURN [of Texas]: Mr. Speaker, I move to lay the appeal on the table.

THE SPEAKER: The question is on the motion of the gentleman from Texas to lay the appeal on the table.

The question was taken; and on a division (demanded by Mr. Snell) there were—ayes 212, noes 63.

§ 9.4 When an appeal from a decision of the Chair is tabled, the effect of such action sustains the decision of the Chair.

On May 25, 1944,(18) the House was considering H.R. 4879, making appropriations for war agencies for the fiscal year ending June 30, 1945. In response to a parliamentary inquiry the Speaker(19) ruled that points of

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16. 81 CONG. REC. 8845, 75th Cong. 1st Sess.

17. William B. Bankhead (Ala.).

18. 90 CONG. REC. 4990-92, 78th Cong. 2d Sess.

19. Sam Rayburn (Tex.).

order against the bill had been waived by unanimous consent two days previously. The following then occurred:

> Mr. [Francis H.] Case [of South Dakota]: Mr. Speaker, in view of the importance of this as a matter of setting a precedent, I respectfully appeal from the decision of the Chair and ask for recognition. . . .
>
> The question involved is whether or not you want the Speaker to recognize Members to ask for the consideration of appropriation bills with points of order waived and let that recognition come at any time regardless of whether or not the bill has been reported to the House.
>
> Mr. Speaker, I move the previous question.
>
> Mr. [John W.] McCormack [of Massachusetts]: Mr. Speaker, I move that the appeal be laid on the table.
>
> The Speaker: The motion of the gentleman from Massachusetts is preferential.
>
> The question was taken; and the Chair being in doubt, the House divided; and there were—ayes 175, noes 54. . . .
>
> So the motion was agreed to.
>
> The Speaker: The motion offered by the gentleman from Massachusetts is agreed to and the decision of the Chair sustained. . . .
>
> Parliamentary Inquiry
>
> Mr. Case: Mr. Speaker, a parliamentary inquiry.
>
> The Speaker: The gentleman will state it.
>
> Mr. Case: Mr. Speaker, did I understand the Speaker to state that the decision of the Chair was sustained or that the appeal was laid on the table? The effect is perhaps the same.
>
> The Speaker: The motion to lay the appeal on the table was agreed to. The ruling of the Chair was thereby sustained.
>
> Mr. Case: The Chair holds that the two things were involved in laying the appeal on the table?
>
> The Speaker: They were in the disposition of the appeal.

Rejection of Motion to Table as Affecting Vetoed Bill

§ 9.5 The Speaker declined to construe a "no" vote on a motion to table as being "tantamount to overriding the President's veto."

On Sept. 7, 1965,(20) Mr. Durward G. Hall, of Missouri, offered a motion to discharge the Committee on Armed Forces from further consideration of the bill H.R. 8439, for military construction, which had been vetoed by the President, and to have that bill considered in the House. Mr. L. Mendel Rivers, of South Carolina, moved to lay that motion on the table. Mr. Hall then rose with a parliamentary inquiry.

> Mr. Hall: Mr. Speaker, a further parliamentary inquiry.
>
> The Speaker pro Tempore:(1) The gentleman will state it.

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20. 111 Cong. Rec. 22958, 22959, 89th Cong. 1st Sess.

1. Carl Albert (Okla.).

Mr. Hall: Mr. Speaker, would a "no" vote as just stated by the Chair be tantamount to overriding the Presidential veto of the military construction bill?

The Speaker Pro Tempore: The Chair cannot make such construction on a motion. . . .

The question was taken; and there were—yeas 323, nays 19, not voting 90. . . .

So the motion was agreed to.

Debate on Motions to Table

§ 9.6 The motion to lay on the table is not debatable.

On Dec. 9, 1971,(2) the House approved House Resolution 729, providing for consideration of conference reports the same day reported during the first session of the 92d Congress. Mr. Fletcher Thompson, of Georgia, then moved to reconsider the vote by which the resolution was agreed to. Mr. William M. Colmer, of Mississippi, then offered a motion to table that motion:

Mr. Colmer: Mr. Speaker, I move to lay that motion on the table.

The Speaker:(3) The question is on the motion to table, offered by the gentleman from Mississippi.

The question was taken and the Speaker announced that the ayes appeared to have it.

Parliamentary Inquiry

Mr. Thompson of Georgia: Mr. Speaker, a parliamentary inquiry. According to rule XVIII, section 819, debate on the motion to reconsider:

> A motion to reconsider is debatable only if the motion proposed to be reconsidered was debatable.

The motion was debatable.

The Speaker: The House is not voting on the motion to reconsider. It is voting on the motion to table. That motion is not debatable.

Tabling of Motion to Instruct Conferees

§ 9.7 A motion to instruct conferees is subject to a motion to table.

On Aug. 8, 1961,(4) the House was considering H.R. 7576, authorizing appropriations for the Atomic Energy Commission. After Mr. James E. Van Zandt, of Pennsylvania, had offered a motion to instruct the managers on the part of the House at the conference, and after one hour debate thereon, a motion to table was offered.

Mr. Van Zandt: Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Van Zandt moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill

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(2) 117 Cong. Rec. 45875, 45876, 92d Cong. 1st Sess.

(3) Carl Albert (Okla.).

(4) 107 Cong. Rec. 14949, 14957, 87th Cong. 1st Sess.

> H.R. 7576 be instructed not to agree to project 62-a-6, electric energy generating facilities for the new production reactor, Hanford, Wash., $95 million as contained in the Senate amendment. . . .

The Speaker Pro Tempore:[5] The question is on the motion offered by the gentleman from Pennsylvania [Mr. Van Zandt].

Mr. [Clarence] Cannon [of Missouri]: Mr. Speaker, I move that the motion to instruct conferees be laid on the table.

Mr. [Charles A.] Halleck [of Indiana]: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Halleck: Under the rules of the House, is this motion to table in order?

The Speaker Pro Tempore: The motion is in order. . . .

The question was taken; and there were—yeas 164, nays 235, not voting 38.[6]

§ 9.8 The House has adopted the preferential motion to lay on the table a motion to instruct House conferees.

On Dec. 8, 1970,[7] the House was considering H.R. 17755, the Department of Transportation Appropriation Act for fiscal 1971. The following occurred:

Mr. [Sidney R.] Yates [of Illinois]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Mr. Yates moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill H.R. 17755 be instructed to agree to Senate amendment No. 4. . . .

Mr. [Edward P.] Boland [of Massachusetts]: Mr. Speaker, I offer a privileged motion.

The Clerk read as follows:

> Mr. Boland moves to lay on the table the motion offered by the gentleman from Illinois (Mr. Yates).

The Speaker:[8] The question is on the motion offered by the gentleman from Massachusetts (Mr. Boland). . . .

The question was taken; and there were—yeas 213, nays 175, answered "present" 1, not voting 45. . . .

So the motion to table was agreed to.[9]

§ 9.9 The House rejected a preferential motion to lay on the table a motion to instruct the House managers at a conference.

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[5] Carl Albert (Okla.).

[6] See also 115 Cong. Rec. 31202-04, 91st Cong. 1st Sess., Oct. 23, 1969; and 96 Cong. Rec. 2501-16, 81st Cong. 2d Sess., Feb. 28, 1950.

[7] 116 Cong. Rec. 40271, 40288, 40289, 91st Cong. 2d Sess.

[8] John W. McCormack (Mass.).

[9] See also 115 Cong. Rec. 29315, 29316, 31202-04, 91st Cong. 1st Sess., Oct. 23, 1969; and 96 Cong. Rec. 2501-16, 81st Cong. 2d Sess., Feb. 28, 1950.

On Dec. 18, 1969,(10) the House was considering H.R. 13111, dealing with appropriations for the Department of Labor and HEW for fiscal 1970. After Mr. Silvio O. Conte, of Massachusetts, offered a motion to instruct the House conferees to agree to two Senate amendments, Mr. Daniel J. Flood, of Pennsylvania, rose to his feet:

> **Mr. Flood:** Mr. Speaker, I offer a preferential motion.
>
> The Clerk read as follows:
>
> Mr. Flood moves to lay on the table the motion of the gentleman from Massachusetts (Mr. Conte).
>
> **The Speaker:**(11) The question is on the preferential motion. . . .
>
> The question was taken; and there were—yeas 181, nays 216, not voting 36. . . .
>
> So the preferential motion was rejected.

Since Mr. Conte had informally conducted debate on his motion prior to formally offering it, the question was at this point taken thereon, and the motion adopted.

Tabling of Resolution to Adjourn Sine Die

§ 9.10 A motion to lay on the table a concurrent resolution providing for adjournment sine die is in order.

On Mar. 27, 1936,(12) Mr. Maury Maverick, of Texas, offered a concurrent resolution providing that the two Houses adjourn *sine die.* Mr. William B. Bankhead, of Alabama, then rose to his feet:

> **Mr. Bankhead:** Mr. Speaker, I move to lay the resolution on the table.
>
> **The Speaker:**(13) The question is on the motion to lay the resolution on the table. . . .
>
> The motion to lay the resolution on the table was agreed to, and a motion to reconsider was laid on the table.

Parliamentarian's Note: The resolution providing for adjournment though not debatable is subject to amendment.

Tabling of Motion to Approve the Journal

§ 9.11 A motion to lay on the table a motion to approve the Journal is in order, and takes precedence over the motion for the previous question.

On Sept. 13, 1965,(14) after the Clerk concluded the reading of the Journal, a motion was made that it be approved as read:

> **Mr. [Carl] Albert** [of Oklahoma]: Mr. Speaker, I move that the Journal

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10. 115 Cong. Rec. 39826–30, 91st Cong. 1st Sess.
11. John W. McCormack (Mass.).
12. 80 Cong. Rec. 4512, 4513, 74th Cong. 2d Sess.
13. Joseph W. Byrns (Tenn.).
14. 111 Cong. Rec. 23600, 23601, 89th Cong. 1st Sess.

be approved as read; and on that I move the previous question.

Mr. [Durward G.] Hall [of Missouri]: Mr. Speaker, I move that that motion be laid on the table; and I offer an amendment to the Journal.

The Speaker:(15) The Chair will state that the motion to lay on the table is in order, but the amendment is not in order. . . .

The question is on the motion to lay on the table the motion that the Journal be approved as read.

The question was taken; and there were—yeas 138, nays 244, not voting 50.

Tabling of Motion to Rerefer a Bill

§ 9.12 A motion to rerefer a bill to a committee claiming jurisdiction has been laid on the table.

On Apr. 21, 1942,(16) Mr. Samuel Dickstein, of New York, moved that the bill H.R. 6915, be rereferred from the Committee on the Judiciary to the Committee on Immigration and Naturalization. After the Speaker overruled several points of order against the motion by Mr. Dickstein the following occurred:

Mr. [John E.] Rankin [of Missisippi]: Then, Mr. Speaker, I move to lay on the table the motion of the gentleman from New York.

The Speaker:(17) The question is on the motion offered by the gentleman from Mississippi. . . .

The question was taken; and there were—yeas 238, nays 83, answered "present" 2, not voting 108.

Tabling of Consent Calendar Bill

§ 9.13 A bill called on the Consent Calendar was, by unanimous consent, laid on the table.

On Dec. 17, 1963,(18) the Clerk of the House had just called House Joint Resolution 838, relating to the commission established to report on the assassination of President John F. Kennedy. The resolution authorized the commission to compel the attendance of witnesses and the production of records. Mr. Emanuel Celler, of New York, then rose to his feet:

Mr. Celler: Mr. Speaker, an identical bill having passed the House, I ask unanimous consent that House Joint Resolution 852 be tabled.

The Speaker:(19) Is there objection to the request of the gentleman from New York?

There was no objection.

Tabling of Resolution of Impeachment

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15. John W. McCormack (Mass.).
16. 88 Cong. Rec. 3571, 77th Cong. 2d Sess.
17. Sam Rayburn (Tex.).
18. 109 Cong. Rec. 24788, 88th Cong. 1st Sess.
19. John W. McCormack (Mass.).

§ 9.14 The motion to lay on the table applies to resolutions proposing impeachment.

On Jan. 17, 1933,(20) Mr. Louis T. McFadden, of Pennsylvania, offered a resolution proposing the impeachment of President Herbert Hoover. After the Clerk concluded reading the resolution Mr. Henry T. Rainey, of Illinois, rose to his feet.

> MR. RAINEY: Mr. Speaker, I move to lay the resolution of impeachment on the table.
>
> THE SPEAKER:(1) The gentleman from Illinois moves to lay the resolution of impeachment on the table.
>
> May the Chair be permitted to make a statement with reference to the rules applying to that motion. The parliamentarian has examined the precedents with reference to the motion. Speaker Clark and Speaker Gillette, under identical conditions, held that a motion to lay on the table took a Member off the floor of the House, although the general rules granted him one hour in which to discuss the resolution of impeachment or privileges of the House. Therefore the motion is in order.

Tabling of Motion to Discharge a Committee

§ 9.15 A motion to discharge a committee from consideration of a vetoed bill is subject to the motion to table.(2)

On Sept. 7, 1965,(3) the Chair recognized Mr. Durward G. Hall, from Missouri.

> MR. HALL: Mr. Speaker, I rise to a question of the highest privilege of the House, based directly on the Constitution and precedents, and offer a motion.
>
> THE SPEAKER PRO TEMPORE:(4) The Clerk will report the motion.
>
> The Clerk read as follows:
>
>> Motion by Mr. Hall:
>>
>> *Resolved*, That the Committee on Armed Services be discharged from further consideration of the bill H.R. 8439, for military construction, with the President's veto thereon, and that the same be now considered.
>
> MR. [L. MENDEL] RIVERS [of South Carolina]: Mr. Speaker, I move to lay that motion on the table.
>
> THE SPEAKER PRO TEMPORE: The question is on the motion of the gentleman from South Carolina. . . .
>
> MR. HALL: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER PRO TEMPORE: The gentleman will state it. . . .
>
> MR. HALL: Is a highly privileged motion according to the Constitution subject to a motion to table?
>
> THE SPEAKER PRO TEMPORE: It is. . . .
>
> The question was taken; and there were—yeas 323, nays 19, not voting 90.

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20. 76 CONG. REC. 1965-68, 72d Cong. 2d Sess.
1. John N. Garner (Tex.).
2. But see § 9.16, infra.
3. 111 CONG. REC. 22958, 22959, 89th Cong. 1st Sess.
4. Carl Albert (Okla.).

Parliamentarian's Note: The general rule (stated in § 9.16, infra) is that motions to discharge committees are not subject to a motion to table. Rule XXVII clause 4,(5) which authorizes motions to discharge committees from consideration of "public bills and resolutions" provides, *inter alia,* that such motions be decided without intervening motion except one motion to adjourn, and thereby precludes motions to lay on the table. However, this rule does not apply to vetoed bills where the motion to discharge is based on the constitutional privilege accorded the consideration of a veto. Therefore, the prohibition against intervening motions on motions to discharge committees does not apply when a motion to discharge is made under another rule of the House or provision of law not governed by rule XXVII clause 4.

§ 9.16 The motion to lay on the table a motion to discharge a committee under rule XXVII clause 4 is not in order.

On June 11, 1945,(6) a Member sought to obtain consideration of H.R. 7, a bill to outlaw the poll tax, by calling up a motion to discharge the Committee on Rules from further consideration of a resolution providing for consideration of that bill:

> MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, I call up the motion to discharge the Committee on Rules from further consideration of House Resolution 139, providing for the consideration of the bill (H.R. 7) making unlawful the requirement for the payment of a poll tax as a prerequisite to voting in a primary or other election for national officers.

After the Clerk read the resolution, the following occurred:

> MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, I move that the motion be laid on the table.
>
> THE SPEAKER:(7) That motion is not in order under the rules.

Tabling of Resolution of Inquiry

§ 9.17 The motion to lay on the table may be applied to a resolution of inquiry adversely reported from a committee.

On Aug. 16, 1972,(8) Mr. Charles M. Price, of Illinois, called up House Resolutions 1078 and 1079, directing the Secretary of Defense to furnish certain information to the House of Representatives:

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5. *House Rules and Manual* § 908 (1981).
6. 91 CONG. REC. 5892-96, 79th Cong. 1st Sess.
7. Sam Rayburn (Tex.).
8. 118 CONG. REC. 28365, 92d Cong. 2d Sess.

Mr. Price of Illinois: Mr. Speaker, in view of the fact that this resolution was adversely reported by the House Committee on Armed Services by a rollcall vote of 27 to 5, I move to lay House Resolution 1078 on the table.

The Speaker:[9] The question is on the motion offered by the gentleman from Illinios (Mr. Price).

The motion to table was agreed to. . . .

Mr. Price of Illinois: Mr. Speaker, I call up House Resolution 1079 and ask for its immediate consideration.

The Clerk read the resolution. . . .

Mr. Price of Illinois: Mr. Speaker, in view of the fact that this resolution was ordered adversely reported to the House on a vote of 31 to 1 by the House Armed Services Committee I move to lay House Resolution 1079 on the table.

The Speaker: The question is on the motion offered by the gentleman from Illinois (Mr. Price).

The motion to table was agreed to.

A motion to reconsider the votes by which action was taken on both motions to table was laid on the table.[10]

§ 9.18 A resolution of inquiry was, by unanimous consent, discharged from the Committee on the Judiciary and laid on the table at the request of its sponsor.

On Oct. 23, 1973, Mr. Paul N. McCloskey, of California, introduced House Resolution 634, a privileged resolution of inquiry, requesting the Attorney General to furnish the House with all documents and items of evidence in the custody of the Watergate Special Prosecutor as of Oct. 20 of that year.

On Nov. 1, 1973,[11] after the Attorney General had turned over the documents in question to a federal court, Mr. McCloskey took the following action:

> Mr. McCloskey: Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from the further consideration of House Resolution 634 and that the resolution be laid upon the table.
>
> The Speaker:[12] Is there objection to the request of the gentleman from California?
>
> There was no objection.

§ 9.19 The House has rejected a motion to lay on the table an adversely reported resolution of inquiry, and after debate, agreed to the resolution.

On Feb. 20, 1952,[13] Mr. James P. Richards, of South Carolina, offered a privileged resolution, House Resolution 514, directing the Secretary of State to transmit to the House information relating to agreements made between the President of the United States and the Prime Minister of Great Britain. After the Clerk read the resolution and the adverse report thereon by the Committee on Foreign Affairs, the following took place:

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[9] Carl Albert (Okla.).

[10] See also 119 Cong. Rec. 6383-85, 93d Cong. 1st Sess., Mar. 6, 1973; 117 Cong. Rec. 34266, 92d Cong. 1st Sess., Sept. 30, 1971; 117 Cong. Rec. 23030, 23031, 92d Cong. 1st Sess., June 30, 1971; and 111 Cong. Rec. 24030, 24033, 24034, 89th Cong. 1st Sess., Sept. 16, 1965.

[11] 119 Cong. Rec. 35644, 93d Cong. 1st Sess.

[12] Carl Albert (Okla.).

[13] 98 Cong. Rec. 1205-07, 1215, 1216, 82d Cong. 2d Sess.

> Mr. Richards: Mr. Speaker, I move that the resolution be laid on the table.
>
> Mr. [Charles A.] Halleck [of Indiana]: Mr. Speaker, a parliamentary inquiry.
>
> The Speaker:(14) The gentleman will state it.
>
> Mr. Halleck: Mr. Speaker, this is a matter of very considerable importance. Does the making of this motion at this time preclude all debate, or may we expect that the chairman of the Committee on Foreign Affairs will yield time to those who may want to discuss this matter?
>
> The Speaker: The motion to lay on the table is not debatable. The gentleman from South Carolina cannot yield time after he has made a motion to lay on the table. . . .
>
> The question is on the motion of the gentleman from South Carolina. . . .
>
> The question was taken; and there were—yeas 150, nays 184, not voting 97. . . .
>
> So the motion was rejected.

Debate ensued on the resolution and the proceedings were resolved as follows:

> Mr. [John M.] Vorys [of Ohio]: Mr. Speaker, I move the previous question.
>
> The previous question was ordered. . . .
>
> The question was taken; and there were—yeas 189, nays 143, not voting 99, as follows. . . .
>
> So the resolution was agreed to.

Raising Question of Consideration

§ 9.20 Parliamentarian's Note: The question of consideration may be raised after a motion to lay on the table has been made.(15)

Tabling of Resolution From Rules Committee

§ 9.21 In response to a parliamentary inquiry the Speaker advised that if the previous question on a privileged resolution reported by the Committee on Rules was voted down, a motion to table would be in order and would be preferential.

On Oct. 19, 1966,(16) the House was considering House Resolution 1013, establishing a Select Committee on Standards and Conduct, when a series of parliamentary inquiries were raised.

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14. Sam Rayburn (Tex.).

15. 5 Hinds' Precedents § 4943.

16. 112 Cong. Rec. 27725, 89th Cong. 2d Sess.

Mr. [Wayne L.] Hays [of Ohio]: Mr. Speaker, if the previous question is refused, it is true that then amendments may be offered and further debate may be had on the resolution?

The Speaker:[17] If the previous question is defeated, then the resolution is open to further consideration and action and debate.

Mr. [Joe D.] Waggonner [Jr., of Louisiana]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. Waggonner: Mr. Speaker, under the rules of the House, is it not equally so that a motion to table would then be in order?

The Speaker: At that particular point, that would be a preferential motion.

§ 9.22 After defeating the motion for the previous question on a resolution establishing a select investigative committee reported by the Committee on Rules, the House then voted to table the resolution.

On Mar. 11, 1941,[18] the House was considering House Resolution 120, providing for an investigation of the national military defense capability. Mr. Edward E. Cox, of Georgia, offered an amendment to the resolution and moved the previous question on the amendment and the resolution. The following then occurred:

Mr. [Andrew J.] May [of Kentucky]: Mr. Speaker, a parliamentary inquiry.

The Speaker:[19] The gentleman will state it.

Mr. May: Mr. Speaker, I desire to inquire whether or not the amendment as offered is debatable before the previous question is voted upon.

The Speaker: The previous question has been moved. If the previous question is voted down, the amendment would be subject to debate. The question is on ordering the previous question. . . .

So the motion for the previous question was rejected.

Mr. May: Mr. Speaker, I move that House Resolution 120 be laid on the table.

The motion was agreed to.

A motion to reconsider was laid on the table.[1]

§ 9.23 A resolution reported by the Committee on Rules providing a special order of business was, after debate, laid on the table.

On June 15, 1938,[2] the House was considering House Resolution 526, providing for the consideration of a joint resolution to establish a Bureau of Fine Arts in the Department of the Interior. After debate, the previous question was rejected and the following transpired:

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[17] John W. McCormack (Mass.).

[18] 87 Cong. Rec. 218[illegible], 77th Cong. 1st Sess.

[19] Sam Rayburn (Tex.).

[1] See also 81 Cong. Rec. 3291-301, 75th Cong. 1st Sess., Apr. 8, 1937.

[2] 83 Cong. Rec. 9499, 75th Cong 3d Sess.

> **Mr.** [**Edward** E.] **Cox** [of Georgia]: Mr. Speaker, I move that the resolution be tabled.
>
> **Mr.** [**Gerald** J.] **Boileau** [of Wisconsin]: Mr. Speaker, I do not yield to the gentleman from Georgia for that purpose unless the same order is entered with reference to my retaining the floor in the event the motion is defeated.
>
> **The Speaker:**(3) Unless there is objection the Chair will consider that the same order shall prevail.
>
> There was no objection.
>
> **The Speaker**: The gentleman from Georgia moves that the resolution be laid on the table.
>
> The question was taken; and on a division (demanded by Mr. Boileau) there were—ayes 195, noes 35.
>
> So the motion was agreed to.

§ 9.24 A resolution reported by the Committee on Rules has been laid on the table by unanimous consent.

On Oct. 2, 1963,(4) the House was considering House Resolution 514, concerning a trip to be made by members of the Committee on Agriculture. Mr. Howard W. Smith, of Virginia, was recognized.

> **Mr. Smith** of Virginia: Mr. Speaker the Committee on Rules reported House Resolution 514 concerning a trip to be made by members of the Committee on Agriculture. The matter did not get through until after the trip was over. It is now on the Calendar. I ask unanimous consent that House Resolution 514 be laid on the table.
>
> **The Speaker:**(5) Without objection, it is so ordered.
>
> There was no objection.

Tabling of Resolution Relating to the Privileges of the House

§ 9.25 A resolution raising a question of the privileges of the House has been laid on the table.

On June 20, 1968,(6) the House was considering the conference report on H.R. 15414, the Revenue and Expenditure Control Act of 1968, when Mr. H. R. Gross, of Iowa, rose to a question of privilege of the House, and offered a resolution (H. Res. 1222) which contended that the Senate in its amendments to the House bill had contravened the Constitution and had infringed on the privileges of the House. After the debate on the resolution had concluded the following occurred:

> **Mr. Gross**: Mr. Speaker, I move the previous question on the resolution.
>
> **Mr.** [**Wilbur** D.] **Mills** [of Arkansas]: Mr. Speaker, I move to lay the resolu-

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3. William B. Bankhead (Ala.).
4. 109 Cong. Rec. 18583, 88th Cong. 1st Sess.
5. John W. McCormack (Mass.).
6. 114 Cong. Rec. 17970–72, 17977, 17978, 90th Cong. 2d Sess.

tion offered by the gentleman from Iowa on the table.

The Speaker Pro Tempore:(7) The question is on the motion offered by the gentleman from Arkansas. . . .

The motion is to lay the resolution on the table.

The question was taken; and there were—yeas 257, nays 162, not voting 14, as follows. . . .

So the motion to table the resolution was agreed to.

Tabling a Motion to Dispense With Further Proceedings Under a Call

§ 9.26 A motion to lay on the table a motion to dispense with further proceedings under a call of the House is not in order since a motion to table may not be applied to a motion which is neither debatable nor amendable.

On Dec. 18, 1970,(8) the following occurred after a rollcall in the House:

The Speaker:(9) On this rollcall 312 Members have answered to their names, a quorum.

Without objection, further proceeding under the call will be dispensed with.

Mr. [H. R.] Gross [of Iowa]: Mr. Speaker, I object to dispensing with further proceedings under the call.

MOTION OFFERED BY MR. ALBERT

Mr. [Carl] Albert [of Oklahoma]: Mr. Speaker, I move to dispense with further proceedings under the call.

The Speaker: The question is on the motion of the gentleman from Oklahoma.

Mr. [Durward G.] Hall [of Missouri]: Mr. Speaker, I move to table that motion.

The Speaker: The motion to dispense with further proceedings under the call is not debatable and is not amendable. The Chair rules that the motion of the gentleman from Missouri is not in order. The question is on the motion of the gentleman from Oklahoma.

The question was taken; and the Speaker announced that the ayes appeared to have it.(10)

Tabling of Motions Relating to the Order of Business

§ 9.27 The motion to lay on the table may not be applied to a motion relating to the order of business.

On Apr. 22, 1940,(11) the following took place on the floor of the House:

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7. Charles M. Price (Ill.).
8. 116 Cong. Rec. 42504, 42505, 91st Cong. 2d Sess.
9. John W. McCormack (Mass.).
10. See also 114 Cong. Rec. 26453, 90th Cong. 2d Sess., Sept. 11, 1968; and 111 Cong. Rec. 23596–98, 89th Cong., 1st Sess., Sept. 13, 1965.
11. 86 Cong. Rec. 4860, 76th Cong. 3d Sess.

Mr. [Jack] Nichols [of Oklahoma]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 8980) to provide revenue for the District of Columbia, and for other purposes; and, pending that, I ask unanimous consent that general debate on the bill be limited to 1 hour, one-half to be controlled by the gentleman from Illinois [Mr. Dirksen] and one-half by myself.

Mr. [John C.] Schafer [of Wisconsin]: Mr. Speaker, a preferential motion. I move to lay the pending motion on the table.

The Speaker Pro Tempore:(12) The Chair may say to the gentleman from Wisconsin that his motion is not in order. It applies to the order of business and is not in order at this time.

§ 9.28 A resolution providing a special order of business, before the House under operation of the discharge rule, is not subject to the motion to table, since the discharge rule provides that "if the motion prevails to discharge the Committee on Rules from any resolution pending before the committee, the House shall immediately vote on the adoption of said resolution, the Speaker not entertaining any dilatory or other intervening motion except one motion to adjourn."

On June 11, 1945,(13) the House voted to discharge the Committee on Rules from further consideration of House Resolution 139, providing for the consideration of the bill H.R. 7, which sought to eliminate the payment of the poll tax as a prerequisite to voting in a primary or other election for a national officer. The Speaker, Sam Rayburn, of Texas, announced that the question was on the resolution. At that point, Mr. John E. Rankin, of Mississippi, rose with a parliamentary inquiry:

Mr. Rankin: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Rankin: Does that mean that this is the end, that this is the last vote on the resolution?

The Speaker: The last vote today. If the resolution is agreed to, the bill comes up tomorrow under the terms of the resolution.

Mr. Rankin: I thought the other vote was the only vote to be taken today.

The Speaker: The other vote was on the question of discharging the Committee on Rules. This vote is on the resolution to make the bill in order.

Mr. Rankin: I move to lay that motion on the table.

The Speaker: Under the rule, that motion is not in order.

The question is on the resolution.

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12. Sam Rayburn (Tex.).

13. 91 Cong. Rec. 5895, 5896, 79th Cong. 1st Sess.

The question was taken and the Chair announced that the ayes seemed to have it.

Application of Motion in Committee of the Whole

§ 9.29 In response to a parliamentary inquiry, the Chair stated that a motion to table a pending amendment and all amendments thereto was not in order in the Committee of the Whole.

On Apr. 30, 1970,(14) Mr. Samuel S. Stratton, of New York, rose with a parliamentary inquiry:

> Mr. Stratton: Mr. Chairman, a parliamentary inquiry.
>
> The Chairman:(15) The gentleman will state it.
>
> Mr. Stratton: Would it be in order to move at this time that the Reid of New York amendment and all amendments thereto be tabled so that this matter of grave consequence might be considered at another time?
>
> The Chairman: A motion to table is not in order at this time.(16)

§ 9.30 The motion to lay on the table is not in order in Committee of the Whole.

On Oct. 19, 1945,(17) the House was considering H.R. 4407, to reduce appropriations and contract authorizations for certain departments and agencies. Mr. Emmet O'Neal, of Kentucky, made a point of order against an amendment offered by Mr. John E. Rankin, of Mississippi, on the grounds that the amendment was not germane to the bill. After the Chairman, Fritz G. Lanham, of Texas, sustained the point of order, the following took place:

> Mr. Rankin: Mr. Chairman, with all the deference in the world for the distinguished Chairman, whom we all love, I respectfully appeal from the ruling of the Chair.
>
> Mr. O'Neal: Mr. Chairman, I move to lay the appeal on the table.
>
> Mr. Rankin: Mr. Chairman, the appeal cannot be laid on the table. The Committee has a right to vote on it.
>
> The Chairman. The motion to lay on the table is not in order in the Committee.(18)

Senate Debate on Motion

§ 9.31 In the Senate, the motion to lay an appeal on the table is not debatable.

On Aug. 2, 1948,(19) 22 Senators signed a cloture petition against a

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14. 116 Cong. Rec. 13782, 91st Cong. 2d Sess.
15. Daniel D. Rostenkowski (Ill.).
16. See also 72 Cong. Rec. 8959, 71st Cong. 2d Sess., May 14, 1930.
17. 91 Cong. Rec. 9846, 9867–70, 79th Cong. 1st Sess.
18. See also 81 Cong. Rec. 7698–700, 75th Cong. 1st Sess., July 27, 1937.
19. 94 Cong. Rec. 9598–605, 80th Cong. 2d Sess.

motion to take up the bill H.R. 29, the anti-poll tax bill. Senator Richard B. Russell, of Georgia, submitted a point of order against the cloture petition on the grounds that the Senate rules prohibited the use of the cloture petition against a motion to take up a bill. The President pro tempore, Arthur H. Vandenberg, of Michigan, sustained the point of order, although he stated that his personal feelings were at variance therewith, and he invited the Senate to appeal his ruling.

Mr. [Robert A.] Taft [of Ohio]: Mr. President, I appeal from the decision of the Chair chiefly, of course, because it leaves the Senate in an almost impossible situation. A motion to take up is subject to debate and against it under the Chair's decision, a cloture petition cannot lie. Consequently there is no way by which this situation can be changed, except by physical exhaustion, by keeping the Senate in session day in and day out, which I hope will not be necessary, although we shall have to get to it next year unless this proposed change is made. . . .

The President Pro Tempore: The Senator from Ohio has appealed from the decision of the Chair. Therefore, the pending question before the Senate is, Shall the decision of the Chair stand as the decision of the Senate? . . .

Mr. [Kenneth S.] Wherry [of Nebraska]: Mr. President, I propound the following inquiry: If a motion is made to lay the appeal on the table, is that motion subject to debate?

The President Pro Tempore: No motion to table is ever subject to debate.(20)

§ 10 Offering Motion

Demand That Motion Be in Writing

§ 10.1 A demand that the motion to lay on the table a motion to instruct conferees be in writing comes too late after the motion has been stated and the Chair has responded to several parliamentary inquiries.

On Aug. 8, 1961,(1) after the House had agreed to send to conference H.R. 7576, authorizing appropriations for the Atomic Energy Commission, Mr. James E. Van Zandt, of Pennsylvania, offered a motion to instruct the House conferees. After one hour of debate on this motion, the following occurred (with Carl Albert, of Oklahoma, as the Speaker pro tempore):

The Speaker Pro Tempore: The question is on the motion offered by the gentleman from Pennsylvania [Mr. Van Zandt].

Mr. [Clarence] Cannon [of Missouri]: Mr. Speaker, I move that the

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20. See also 95 Cong. Rec. 2273–75. 81st Cong. 1st Sess., Mar. 11, 1949.

1. 107 Cong. Rec. 14949–58, 87th Cong. 1st Sess.

motion to instruct conferees be laid on the table.

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. HALLECK: Under the rules of the House, is this motion to table in order?

THE SPEAKER PRO TEMPORE: The motion is in order.

MR. HALLECK: If the motion to table is voted down, will the vote then come on the motion itself?

THE SPEAKER PRO TEMPORE: On ordering the previous question on the motion. . . .

MR. [CHET] HOLIFIELD [of California]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. HOLIFIELD: Mr. Speaker, a yea vote on this motion would dispose of this matter and defeat the motion offered by the gentleman from Pennsylvania [Mr. Van Zandt]?

THE SPEAKER PRO TEMPORE: It would have that effect.

MR. HALLECK: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. HALLECK: Mr. Speaker, a vote against tabling the motion offered by the gentleman from Pennsylvania would give us the right then to vote on the motion which has been offered by the gentleman from Pennsylvania?

THE SPEAKER PRO TEMPORE: The gentleman has properly stated the situation.

MR. VAN ZANDT: Mr. Speaker, is it not a rule of the House that a motion must be at the Clerk's desk in writing?

THE SPEAKER PRO TEMPORE: It must be submitted in writing if a Member at the time insists, but such a demand is not in order at this time. . . .

The question was taken; and there were—yeas 164, nays 235, not voting 38.

§ 11. When in Order

Offering Motion to Table Prior to Debate

§ 11.1 The motion to lay a resolution on the table may be made when the resolution is under consideration but before the Member entitled to recognition on the resolution has obtained the floor for debate.

On Jan. 17, 1933,(2) Mr. Louis T. McFadden, of Pennsylvania, offered a resolution proposing an investigation into the possible impeachment of President Herbert Hoover. After the reading of the resolution had been interrupted by several parliamentary inquiries, and after Mr. McFadden had sought to determine whether his hour's time for debate would be protected, the following occurred:

The Clerk concluded the reading of the resolution.

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2. 76 CONG. REC. 1965–68, 72d Cong. 2d Sess.

MR. [HENRY T.] RAINEY [of Illinois]: Mr. Speaker, I move to lay the resolution of impeachment on the table.

THE SPEAKER:(3) The gentleman from Illinois moves to lay the resolution of impeachment on the table.

May the Chair be permitted to make a statement with reference to the rules applying to that motion. The parliamentarian has examined the precedents with reference to the motion. Speaker Clark and Speaker Gillette, under identical conditions, held that a motion to lay on the table took a Member off the floor of the House, although the general rules granted him one hour in which to discuss the resolution of impeachment or privileges of the House. Therefore the motion is in order.

§ 11.2 A motion to table is a preferential motion, and is in order before a Member begins debate on a motion to expunge from the Record words ruled out of order.

On June 16, 1947,(4) Mr. John E. Rankin, of Mississippi, demanded that certain words read from a telegram by Mr. Chet Holifield, of California, be taken down. After the Speaker ruled the words out of order as being unparliamentary, the following occurred:

MR. RANKIN: Mr. Speaker, I move to strike the entire statement from the Record, and on that I ask for recognition.

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, I move to lay that motion on the table.

MR. RANKIN: Mr. Speaker, I have already been recognized.

THE SPEAKER:(5) A motion to table is preferential and not debatable.

The question is upon the motion offered by the gentleman from New York [Mr. Marcantonio] that the motion be tabled. . . .

The question was taken; and on a division (demanded by Mr. Marcantonio) there were—ayes 10, noes 147.

So the motion to table was rejected.

Application to Resolution Disapproving Reorganization Plan

§ 11.3 A motion to proceed to the consideration of a resolution disapproving a reorganization plan is not subject to the motion to table.

On June 8, 1961,(6) Mr. H. R. Gross, of Iowa, had moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of House Resolution 303, disapproving a reorganization plan transmitted to the Congress by the President. Mr. Byron G. Rogers, of Colorado, rose to his feet with a parliamentary inquiry:

MR. ROGERS of Colorado: Mr. Speaker, a parliamentary inquiry.

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3. John N. Garner (Tex.).
4. 93 CONG. REC. 7065, 80th Cong. 1st Sess.
5. Joseph W. Martin, Jr. (Mass.).
6. 107 CONG. REC. 9775–77, 87th Cong. 1st Sess.

The Speaker Pro Tempore:(7) The gentleman will state it.

Mr. Rogers of Colorado: Mr. Speaker, is a motion to lay this motion on the table in order?

The Speaker Pro Tempore: It would not be in order at this time.

The question is on the motion offered by the gentleman from Iowa [Mr. Gross].

The motion was rejected.

§ 12. As Related to Other Motions; Precedence

As Related to the Previous Question

§ 12.1 The motion to lay on the table takes precedence over the motion for the previous question; pending the demand for the previous question the motion to lay on the table is preferential and in order.

On Dec. 14, 1970,(8) The House was considering House Resolution 1306, asserting the privileges of the House relating to printing and publishing of a report of the Committee on Internal Security. The following then occurred:

The Speaker:(9) The gentleman from Missouri moves the previous question on the resolution.

Preferential Motion Offered by Mr. Stokes

Mr. [Louis] Stokes [of Ohio]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Mr. Stokes moves to lay the resolution on the table.

Parliamentary Inquiry

Mr. [Richard H.] Ichord [of Missouri]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. Ichord: This is a preferential motion to lay the previous question on the table. What would be the parliamentary situation if the previous question is laid on the table? This is not the adoption of the resolution, but a motion with respect to the previous question.

The Speaker: If the motion to lay the resolution on the table is not agreed to, then the question would be on ordering the previous question. Then the next vote would be on the adoption of the resolution.

The question is on the motion offered by the gentleman from Ohio (Mr. Stokes) to lay the resolution on the table. . . .

The question was taken; and there were—yeas 55, nays 301, not voting 77. . . .

So the motion to table was rejected. . . .

The Speaker: The question is on ordering the previous question.

The previous question was ordered.

The Speaker: The question is on the resolution.

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7. Oren Harris (Ark.).
8. 116 Cong. Rec. 41372–74, 91st Cong. 2d Sess.
9. John W. McCormack (Mass.).

MR. ICHORD: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 302, nays 54, not voting 77.(10)

§ 12.2 In response to parliamentary inquiries the Speaker advised that if the previous question on a privileged resolution reported by the Committee on Rules was voted down, a motion to table would be in order and would be preferential.

On Oct. 19, 1960,(11) the House was considering House Resolution 1013, establishing a Select Committee on Standards and Conduct, when Mr. Wayne L. Hays, of Ohio, rose with a parliamentary inquiry:

MR. HAYS: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER:(12) The gentleman will state his parliamentary inquiry.

MR. HAYS: Mr. Speaker, if the previous question is refused, is it true that then amendments may be offered and further debate may be had on the resolution?

THE SPEAKER: If the previous question is defeated, then the resolution is open to further consideration and action and debate.

MR. [JOE D.] WAGGONNER [Jr., of Louisiana]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. WAGGONNER: Mr. Speaker, under the rules of the House, is it not equally so that a motion to table would then be in order?

THE SPEAKER: At that particular point, that would be a preferential motion.

§ 12.3 Following a negative vote on a motion to lay on the table a motion to instruct conferees, the question next occurs on ordering the previous question on the motion to instruct.

On Aug. 8, 1961,(13) the House was considering H.R. 7576, authorizing appropriations for the Atomic Energy Commission, when the Speaker pro tempore, Carl Albert, of Oklahoma, announced that the question was on the motion offered by Mr. James E. Van Zandt, of Pennsylvania, to instruct conferees.

MR. [CLARENCE] CANNON [of Missouri]: Mr. Speaker, I move that the motion to instruct conferees be laid on the table.

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

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10. See also 111 CONG. REC. 23600, 23601, 89th Cong. 1st Sess., Sept. 13, 1965.
11. 112 CONG. REC. 27725, 89th Cong. 2d Sess.
12. John W. McCormack (Mass.).
13. 107 CONG. REC. 14957–59, 15001, 87th Cong. 1st Sess.

Mr. Halleck: Under the rules of the House, is this motion to table in order?

The Speaker Pro Tempore: The motion is in order.

Mr. Halleck: If the motion to table is voted down, will the vote then come on the motion itself?

The Speaker Pro Tempore: On ordering the previous question on the motion.

As Related to the Motion to Dispense With Further Proceedings Under a Call

§ 12.4 A motion to dispense with further proceedings under a call of the House is not subject to a motion to table.

On May 4, 1960,(14) following three separate quorum calls, motions to dispense with further proceedings under the call were made and the previous question demanded thereon. Motions to lay the motions for the previous question on the table were then offered. No point of order was raised against any of these motions to table. On the first two occasions the latter motions were entertained, voted upon, and defeated. On the third occasion, Speaker Sam Rayburn, of Texas, stated that the motion to dispense with further proceedings under a call of the House was neither debatable nor amendable; therefore, neither the demand for the previous question, nor the motion to lay on the table was applicable thereto.

As Related to the Motion to Recommit

§ 12.5 A motion in the House that a Senate amendment be laid on the table is of higher privilege than a motion to refer the amendment to a committee.

On June 17, 1936,(15) the House rejected the conference report on the bill H.R. 11663, to regulate lobbying. The Clerk had proceeded to report the Senate amendment when Mr. Earl C. Michener, of Michigan, rose to his feet.

Mr. Michener: Mr. Speaker, I move that the Senate amendment be laid on the table.

Mr. [John J.] O'Connor [of New York]: Mr. Speaker, I offer a preferential motion, that the conference report and the Senate amendment be recommitted to the Committee on the Judiciary.

Mr. Michener: Mr. Speaker, my understanding of the rule is that the motion suggested by the gentleman from New York is not preferential.

The Speaker:(16) The Chair is of the opinion that the motion made by the

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14. 106 Cong. Rec. 9410-18, 86th Cong. 2d Sess.

15. 80 Cong. Rec. 9743-53, 74th Cong. 2d Sess.

16. William B. Bankhead (Ala.).

gentleman from Michigan has priority. The question is on the motion of the gentleman from Michigan to lay the Senate amendment on the table.

The motion was agreed to.

Parliamentarian's Note: If the motion to table a Senate amendment prevails, it results in the final disposition of the bill as well as the Senate amendment.

§ 13. Taking From the Table

By Unanimous Consent

§ 13.1 The proceedings whereby a bill was laid on the table were vacated by unanimous consent.

On May 4, 1959,(1) the House was considering the bill H.R. 5610, to amend the Railroad Retirement Act of 1937, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act.

Mr. [Oren] Harris [of Arkansas]: Mr. Speaker, I ask unanimous consent that the proceedings whereby the bill H.R. 5610 was laid on the table, the amendment agreed to, the bill engrossed and read a third time, and passed, be vacated for the purpose of offering an amendment. . . .

The Speaker:(2) Is there objection to the request of the gentleman from Arkansas [Mr. Harris]?

There was no objection.

Parliamentarian's Note: A few days earlier, on Apr. 30, 1959, while the House had under consideration H.R. 5610, the Senate messaged to the House S. 226, a measure differing in only one respect from the House bill as it had been amended on the floor. After passage of H.R. 5610, a motion was adopted to strike out all after the enacting clause in S. 226 and insert the language of the House bill, and the House bill was then laid on the table. The following day, shortly before the Senate bill was to be messaged to the Senate, a question was raised as to the constitutionality of the Senate-passed bill because of a tax feature therein. The proceedings in the House on May 4, 1959, were necessitated by the fact that all bills containing revenue provisions must, under article I, section 7 of the Constitution, originate in the House. Following the amendment of the House bill and the indefinite postponement of the Senate bill, the House bill, H.R. 5610, was messaged to the Senate.

§ 13.2 It is in order by unanimous consent to consider a resolution that has been laid on the table.

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(1) 105 Cong. Rec. 7310-13, 86th Cong. 1st Sess.

(2) Sam Rayburn (Tex.).

On May 22, 1935,(3) the following occurred on the floor of the House:

MR. [WILLIAM M.] CITRON [of Connecticut]: Mr. Speaker, I ask unanimous consent to take from the table House Joint Resolution 107, authorizing the President of the United States of America to proclaim October 11 of each year General Pulaski's Memorial Day for the observance and commemoration of the death of Brig. Gen. Casimir Pulaski.

THE SPEAKER:(4) Is there objection to the request of the gentleman from Connecticut?

There being no objection, the Clerk read the resolution.

D. MOTIONS FOR THE PREVIOUS QUESTION

§ 14. In General

A motion for the previous question is used to close debate and bring the pending matter to a vote.(5) It is also used to foreclose further amendments and bring the House to a decision on the pending question. It is not in order in the Committee of the Whole.(6)

The previous question is considered a fundamental rule of parliamentary procedure, and as such it is in order even before the rules of the House have been adopted.(7) The motion takes precedence over all other motions except the motion to adjourn and the motion to lay on the table,(8) but once moved, the motion itself is not subject to a motion to table.(9)

The defeat of the motion for the previous question has two general effects. It throws the main question open to further consideration(10) and it transfers the right of recognition to those Members who opposed the motion.(11)

The motion is neither debatable(12) nor, according to Jefferson's Manual, amendable.(13) Jef-

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3. 79 CONG. REC. 8026, 74th Cong. 1st Sess.
4. Joseph W. Byrns (Tenn.).
5. Rule XVII clause 1, *House Rules and Manual* § 804 (1981); 8 Cannon's Precedents § 2662; and 5 Hinds' Precedents § 5456.
6. See § 14.8, infra.
7. See § 14.1, infra.
8. Rule XVI clause 4, *House Rules and Manual* § 782 (1981).
9. 5 Hinds' Precedents §§ 5410, 5411.
10. See generally § 22, infra.
11. See generally § 23, infra.
12. Rule XVI clause 4, *House Rules and Manual* § 782 (1981).
13. *House Rules and Manual* § 452 (1981).

erson's Manual also makes it clear that the motion for the previous question is not subject to a motion to postpone.(14)

The motion may not be moved on a proposition against which a point of order is pending.(15) Further consideration of a measure has been permitted by unanimous consent after the previous question had been ordered(16) although the precedents are not uniform in this regard.(17)

The previous question may be demanded by the Member in charge of debate on a particular measure.(18) If the Member in charge of a measure claims the floor in debate, another Member may not demand the previous question.(19) The Member controlling debate may be recognized to move the previous question even after he has surrendered the floor in debate.(20) If the Member controlling the floor on a measure yields to a second Member to offer an amendment, a third Member may move the previous question before the second Member is recognized to offer his amendment.(1)

Any Member properly recognized on the floor may offer the motion although the effect may be to deprive the Member in charge of control of his measure.(2) Any Member having the floor may move the previous question after debate if the Member in charge of the measure does not so move.(3)

Forty minutes of debate are allowed when the previous question is ordered on a debatable proposition on which there has been no debate.(4) However, if there has been any debate at all prior to the ordering of the previous question, there is no right to 40 minutes of debate.(5) Such prior debate must have been on the merits of the proposition in order to preclude the 40 minutes permissible under Rule XXVII clause 3.(6) The 40

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14. *Id.* at § 451.
15. 8 Cannon's Precedents §§ 2681, 3433.
16. See § 14.13, infra.
17. See § 15.18, infra.
18. See § 16.1, infra.
19. *House Rules and Manual* § 807 (1981); and 2 Hinds' Precedents § 1458.
20. *House Rules and Manual* § 807 (1981); and 8 Cannon's Precedents § 2682.

1. See § 18.3, infra, and *House Rules and Manual* § 807 (1981).
2. *House Rules and Manual* § 807 (1981); 8 Cannon's Precedents § 2685; and 5 Hinds' Precedents § 5476.
3. *House Rules and Manual* § 807 (1981); and 5 Hinds' Precedents § 5475.
4. Rule XXVII clause 3, *House Rules and Manual* § 907 (1981). See §§ 21.2–21.4, infra.
5. *House Rules and Manual* § 805 (1981); and 5 Hinds' Precedents §§ 5499–5501.
6. *House Rules and Manual* § 805 (1981); and 5 Hinds' Precedents § 5502.

minutes of debate may not be demanded on a proposition which has been debated in the Committee of the Whole⁽⁷⁾ nor on a conference report if the subject matter of the report was debated before being sent to conference.⁽⁸⁾ If the previous question is ordered solely on an amendment which has not been debated, the 40 minutes are permitted⁽⁹⁾ but they are not permitted if the previous question covers both an amendment and the main proposition, which has been debated.⁽¹⁰⁾

Application of Motion Prior to Adoption of the House Rules

§ 14.1 The previous question is applicable in the House prior to the adoption of rules.

On Jan. 10, 1967,⁽¹¹⁾ prior to the formal adoption of the rules of the House, the House was considering House Resolution 1, relating to the right of Adam Clayton Powell to take the oath of office as a Representative from New York. Mr. Joe D. Waggonner, Jr., of Louisiana, rose to his feet and posed a parliamentary inquiry:

> MR. WAGGONNER: Mr. Speaker, at the conclusion of whatever time the gentleman from Arizona chooses to use in the consideration of this matter, under the rules of the House will the House have the usual privilege of voting up or down the previous question?

The Speaker⁽¹²⁾ held that under the precedents applicable prior to the adoption of the rules, the previous question could be offered.⁽¹³⁾

Scope of Motion

§ 14.2 The previous question may be asked and ordered upon a single motion, a series of motions, or an amendment or amendments, or may be made to embrace all motions or amendments pending, and if not otherwise specified it applies to all pending motions or amendments.⁽¹⁴⁾

On July 14, 1942,⁽¹⁵⁾ the House was considering amendments re-

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7. *House Rules and Manual* § 805 (1981); and 5 Hinds' Precedents § 5505.
8. *House Rules and Manual* § 805 (1981); and 5 Hinds' Precedents §§ 5506, 5507.
9. *House Rules and Manual* § 805 (1981); and 5 Hinds' Precedents § 5503.
10. *House Rules and Manual* § 805 (1981); and 5 Hinds' Precedents § 5504.
11. 113 CONG. REC. 14, 15, 90th Cong. 1st Sess.
12. John W. McCormack (Mass.).
13. See also 111 CONG. REC. 19, 20, 89th Cong. 1st Sess., Jan. 4, 1965.
14. Rule XVII clause 1, *House Rules and Manual* § 804 (1981).
15. 88 CONG. REC. 6155–58, 77th Cong. 2d Sess.

ported from conference in disagreement on H.R. 6709, appropriations for agriculture for 1943. Mr. Malcolm C. Tarver, of Georgia, offered a motion that the House insist on its disagreement to Senate amendments numbered 83, 85, and 86. Mr. Clarence Cannon, of Missouri, then offered the preferential motion that the House recede from its disagreement to amendment No. 85, and concur therein with an amendment. At the conclusion of the ensuing debate, Mr. Tarver moved and the House ordered the previous question. When a quorum failed on Mr. Cannon's motion, the House adjourned. The next day,(16) the House rejected Mr. Cannon's motion and the question recurred on Mr. Tarver's motion. At this point, Mr. John Taber, of New York, rose.

Mr. Taber: Mr. Speaker, a parliamentary inquiry.

The Speaker:(17) The gentleman will state it.

Mr. Taber: Has the previous question been ordered upon this particular motion?

The Speaker: The previous question was ordered on both motions on yesterday.

Mr. Taber: The Record indicates that the gentleman from Georgia [Mr. Tarver] moved the previous question, but it does not say on what the previous question was ordered. I assumed it meant that the gentleman had moved the previous question upon the Cannon motion.

The Speaker: Unless otherwise specified, the previous question is ordered on all motions pending at the time.

Divisibility

§ 14.3 A motion for the previous question on an amendment to a resolution and the adoption of the resolution is not divisible.

On Apr. 25, 1940,(18) the House was considering House Resolution 289, providing for consideration of H.R. 5435, amendments to the wage-hour law.

Mr. [Phil] Ferguson [of Oklahoma]: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore:(19) The gentleman will state it.

Mr. Ferguson: Did I understand the Chair to say that the motion was on ordering the previous question on the amendment and the adoption of the rule?

The Speaker Pro Tempore: The gentleman from Georgia moves the previous question on the amendment and on the resolution.

Mr. [Hamilton] Fish [Jr., of New York]: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it.

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16. *Id.* at pp. 6194, 6195.
17. Sam Rayburn (Tex.).
18. 86 Cong. Rec. 5051, 76th Cong. 3d Sess.
19. Sam Rayburn (Tex.).

Mr. Fish: Mr. Speaker, would it be in order to have separate votes on the two propositions?

The Speaker Pro Tempore: A motion for the previous question cannot be divided.

Renewing the Motion

§ 14.4 The previous question, although moved and rejected, may be renewed after intervening business.

On Jan. 3, 1969,(20) the House was considering House Resolution 1 offered by Mr. Emanuel Celler, of New York, dealing with certain fines and punishments proposed against Mr. Adam C. Powell, of New York. After the previous question had been defeated, Mr. Clark MacGregor, of Minnesota, offered a resolution which the Chair ruled out on a point of order. Mr. Celler once again moved the previous question on the resolution and uncertainty arose as to the parliamentary situation. Mr. Albert W. Watson, of South Carolina, rose with a parliamentary inquiry:

Mr. Watson: Mr. Speaker, perhaps I may be alone in my lack of understanding as to exactly what is transpiring at the moment, but, perhaps, there may be some others who might be in a similar situation.

My parliamentary inquiry is this: Once the previous question has been rejected as it was a moment ago on the original Celler resolution, is it not in order for a substitute resolution to be offered by another Member of this body?

The Speaker:(21) The Chair will state in response to the gentleman's parliamentary inquiry that an amendment in the nature of a substitute was offered and a point of order was made against it. The Chair sustained the point of order, and at this point a motion to move the previous question is again in order.

Mr. Watson: Further, Mr. Speaker, there having been no further business having transpired between that vote which we took a moment ago, and by a vote of almost 2 to 1 rejected the previous question, is it not in order for another substitute to be offered?

The Speaker: The Chair will state that business has been transacted during that period of time.

Application of Motion to Private Bills

§ 14.5 It is in order to move the previous question on individual private bills on the calendar.

On Apr. 7, 1936,(1) during the call of the Private Calendar, the House was considering S. 2682 for the relief of Chief Carpenter William F. Twitchell of the U.S. Navy, when the following occurred:

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20. 115 Cong. Rec. 25-27, 91st Cong. 1st Sess.

21. John W. McCormack (Mass.).

1. 80 Cong. Rec. 5075, 74th Cong. 2d Sess.

Mr. [John J.] O'Connor [of New York]: Mr. Speaker, a parliamentary inquiry.

The Speaker:(2) The gentleman will state it.

Mr. O'Connor: Would a motion to move the previous question on the bill preclude the offer of [an] amendment?

The Speaker: The ordering of the previous question would prelude the offering of amendments and serve to close debate.

Approval of Journal

§ 14.6 The motion for the previous question applies to the question of the approval of the Journal.

On June 25, 1949,(3) after the Clerk finished the reading of the Journal, the following took place:

Mr. [John W.] McCormack [of Massachusetts]: Mr. Speaker, I move that the Journal as read stand approved; and on that motion I move the previous question.

The Speaker:(4) The question is on ordering the previous question.

Mr. [James C.] Davis of Georgia: Mr. Speaker, on that I demand the yeas and nays.

Mr. [John E.] Rankin [of Mississippi]: Mr. Speaker, I demand the yeas and nays on ordering the previous question.

The yeas and nays were ordered.

Preamble of Resolution

§ 14.7 Ordering the previous question on a pending resolution does not cover the preamble thereto; and a motion to order the previous question on the preamble is in order following the vote whereby the resolution is agreed to.

On Mar. 1, 1967,(5) the House was considering House Resolution 278, relating to the right of Representative-elect Adam Clayton Powell to be sworn. A motion by Mr. Thomas B. Curtis, of Missouri, for the previous question on his amendment to the resolution and on the resolution itself was adopted, after which the amendment and resolution were approved. The following then occurred:

Mr. Curtis: Mr. Speaker, I move the previous question on the adoption of the preamble.

Mr. [Phillip] Burton of California: Mr. Speaker, a point of order.

The Speaker:(6) The gentleman from California will state his point of order.

Mr. Burton of California: The gentleman from Missouri is urging a motion that duplicates an action already taken by the House. The House already has had a motion to close debate on the preamble and on the resolution as amended.

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2. Joseph W. Byrns (Tenn.).
3. 95 Cong. Rec. 10092, 10093, 81st Cong. 1st Sess.
4. Sam Rayburn (Tex.).
5. 113 Cong. Rec. 5038, 5039, 90th Cong. 1st Sess.
6. John W. McCormack (Mass.).

We have already had that vote. I make the point of order that the gentleman's request and/or motion is out of order. I think the record of the proceedings of the House will indicate that the point being advocated reflects accurately the proceedings as they have transpired.

The Speaker: The Chair will state that the previous question was ordered on the amendment and the resolution but not on the preamble.

Parliamentarian's Note: The previous question could apply to the preamble of a resolution if the proponent of the motion so specifies in offering the motion. See 5 Hinds' Precedents §§ 5469, 5470.

Committee of the Whole

§ 14.8 The motion for the previous question is not in order in the Committee of the Whole.

On Nov. 17, 1967,(7) the Committee of the Whole was considering H.R. 13893, dealing with foreign aid appropriations for fiscal 1968.

Mr. [Paul C.] Jones of Missouri: Mr. Chairman, reserving the right to object, is it in order to move the previous question on this amendment now, inasmuch as we have had considerable debate on it, and I have been trying to receive recognition for approximately half an hour, but now I am willing to forgo my time.

The Chairman:(8) The Chair will state that the moving of the previous question is not in order in the Committee of the Whole.(9)

§ 14.9 The previous question may be moved on a number of amendments reported from the Committee of the Whole leaving certain other amendments reported from such Committee for further consideration in the House.

On Dec. 10, 1937,(10) the Committee of the Whole had considered H.R. 8505, a farm bill, and had reported that bill to the House along with certain amendments. The following then occurred:

Mr. [Marvin] Jones [of Texas]: Mr. Speaker, I move the previous question on all amendments except the Boileau amendment.

The previous question on all amendments except the Boileau amendment was ordered.

The Speaker:(11) Is a separate vote demanded on any amendment?

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7. 113 Cong. Rec. 32964, 90th Cong. 1st Sess.

8. Charles M. Price (Ill.).

9. See also 112 Cong. Rec. 18111, 18112, 89th Cong. 2d Sess., Aug. 3, 1966 [H.R. 14765]; and 110 Cong. Rec. 457, 88th Cong. 2d Sess., Jan. 16, 1964.

10. 82 Cong. Rec. 1285–88, 75th Cong. 2d Sess.

11. William B. Bankhead (Ala.).

MR. [GERALD J.] BOILEAU [of Wisconsin]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. BOILEAU: Will there be an opportunity for a separate vote on the Boileau amendment?

MR. JONES: I may say to the gentleman I am about to ask for a separate vote on it.

MR. BOILEAU: I confess I am not familiar with the procedure in the situation now before the House as to the effect of ordering the previous question on all amendments except the Boileau amendment.

THE SPEAKER: The previous question has already been ordered by the House, thus bringing to an immediate vote all amendments except the so-called Boileau amendment. The gentleman from Texas is now demanding a separate vote upon certain amendments. The Chair will recognize the gentleman from Wisonsin to demand a separate vote upon his amendment if the gentleman from Texas does not do so. . . .

MR. JONES: Mr. Speaker, I ask for a separate vote on four amendments.

I ask first for a separate vote on the so-called Ford amendment, striking out and inserting language on page 6, lines 5 to 17, inclusive. I also ask for a separate vote on a similar amendment which was offered by the gentleman from Mississippi [Mr. Ford], on page 4, line 21. This is a corrective amendment, and, inasmuch as it is a technical amendment made necessary by the other Ford amendment, I ask unanimous consent, Mr. Speaker, that the two amendments may be considered together.

THE SPEAKER: Is there objection to the request of the gentleman from Texas?

There was no objection.

MR. JONES: Mr. Speaker, I ask also for a separate vote on the so-called Boileau amendment, inserting language on page 9, line 4.

I also ask for a separate vote on the so-called Coffee amendment, which struck out part III of title III, relating to marketing quotas on wheat.

THE SPEAKER: Is a separate vote demanded on any other amendment?

MR. [SCOTT W.] LUCAS [of Illinois]: Mr. Speaker, I demand a separate vote on the Jones amendment.

THE SPEAKER: The gentleman from Illinois demands a separate vote on the Jones amendment, which he has described heretofore. For the purpose of the Record, will the gentleman cite to the Chair the page to which the amendment was offered?

MR. JONES: Mr. Speaker, my amendment strikes out, beginning with line 14, on page 14, the remaining part of the paragraph down to and including line 9, on page 15.

MR. BOILEAU: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. BOILEAU: Mr. Speaker, the gentleman from Texas [Mr. Jones] has moved the previous question on all amendments except the Boileau amendment. I do not recall a similar situation since I have been a Member of the House, and I frankly confess I do not know the effect of the motion of the gentleman from Texas. I would appreciate it if the Speaker would explain to the Members of the House the present status of the Boileau amendment.

Am I correct in my understanding of the present situation that because of the previous question having been ordered on all amendments other than the Boileau amendment there is no longer opportunity for debate on such amendments, but that, the previous question not having been ordered on the Boileau amendment, there is opportunity for debate on it unless the previous question is ordered?

The Speaker: Unless the previous question is ordered on the Boileau amendment, if a Member should seek recognition to debate the amendment the Chair would recognize that right.

Mr. Boileau: If a motion for the previous question were made and the previous question ordered on the Boileau amendment, would that amendment then be in the same position before this body as the other amendments?

The Speaker: It would, except the previous question has already been ordered on the other amendments, and under the present situation the amendments upon which the previous question is ordered will be put to a vote and disposed of before the Boileau amendment is before the House for consideration.

House as in Committee of the Whole

§ 14.10 Debate in the House as in the Committee of the Whole may be closed by ordering the previous question.

On July 28, 1969,(12) the House was proceeding as in Committee of the Whole to consider H.R. 9553, amending the District of Columbia Minimum Wage Act.

Mr. [John] Dowdy [of Texas]: Mr. Speaker, I move the previous question.

The Speaker:(13) The question is on ordering the previous question.

Motion to Suspend the Rules Not Subject to Demand for Previous Question

§ 14.11 The motion for the previous question is not applicable where a motion is made to suspend the rules and agree to a resolution.

On June 18, 1948,(14) the House was considering S. 2655, the Selective Service Act of 1948, when the following occurred:

Mr. [Walter G.] Andrews of New York: Mr. Speaker, I move to suspend the rules and pass the resolution, House Resolution 690, which I send to the desk.

The Speaker:(15) The Clerk will report the resolution.

The Clerk read as follows:

> *Resolved,* That the House insist upon its amendment to S. 2655, ask a conference with the Senate on the

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12. 115 Cong. Rec. 20855, 91st Cong. 1st Sess.
13. John W. McCormack (Mass.).
14. 94 Cong. Rec. 8829, 8830, 80th Cong. 2d Sess.
15. Joseph W. Martin, Jr. (Mass.).

> disagreeing votes, and that the Speaker immediately appoint conferees.

A discussion arose as to how to insist on certain provisions of the House amendments to the Senate bill. Mr. John E. Rankin, of Mississippi, then offered the following advice to Mr. Vito Marcantonio, of New York:

> **Mr. Rankin**: I wish to say that if the gentleman wishes to do so, as soon as the previous question is ordered it is in order to offer a motion to instruct conferees. That is the rule of the House that has always been followed.
>
> **The Speaker**: The Chair will inform the gentleman from Mississippi that there is no previous question to be ordered, that the House is now considering under a suspension of the rules House Resolution 690, which carries the following provision:
>
> > That the House insist upon its amendments to the bill of the Senate, S. 2655, ask for a conference with the Senate on the disagreeing votes of the two Houses, and that the Speaker immediately appoint conferees.
>
> **Mr. Rankin**: Mr. Speaker, will the gentleman yield?
>
> **Mr. Marcantonio**: I yield to the gentleman from Mississippi.
>
> **Mr. Rankin**: It has always been the rule and it is the rule now.
>
> **The Speaker**: But this is under a suspension of the rules and it would not be in order after the adoption of the pending resolution to offer such a motion.

Application to Nondebatable Resolutions

§ 14.12 The motion for the previous question may not be applied to a resolution brought up under a motion to discharge where the resolution itself is not debatable under the discharge rule.

On Sept. 27, 1965,(16) Mr. Abraham J. Multer, of New York, called up discharge motion No. 5, to discharge the Committee on Rules from the further consideration of House Resolution 515, providing for the consideration of H.R. 4644, to provide an elected mayor, city council, and nonvoting Delegate to the House of Representatives for the District of Columbia. Mr. Howard W. Smith, of Virginia, and the Speaker, John W. McCormack, of Massachusetts, discussed the procedure for the consideration of the resolution.

> **Mr. Smith** of Virginia: Mr. Speaker, this motion to discharge is directed at the Committee on Rules. If adopted, it will discharge the Committee on Rules from the consideration of the resolution which has just been brought up; am I correct in that? (17)

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16. 111 Cong. Rec. 25180-85, 89th Cong. 1st Sess.
17. Motions to discharge are provided for in Rule XXVII clause 4, *House Rules and Manual* § 908 (1981).

The Speaker: The gentleman's statement is correct.

Mr. Smith of Virginia: And Mr. Speaker, after that happens, the next question will be on the resolution itself, which has just been referred to, which has just been called up?

The Speaker: The gentleman's statement is correct.

Mr. Smith of Virginia: Now, Mr. Speaker, that resolution waives points of order. There are grave points of order in the bill that is to be recognized. The question I want to ask is whether there will be an opportunity in debate on the rule to advise the House of the facts that it does waive the points of order and that there are points of order with which the House ought to be made familiar.

The Speaker: The Chair will state that under the rule on the question of discharge there is 20 minutes, 10 minutes to the side, and that will close debate on the motion. The House will then vote on the adoption of House Resolution 515 without debate or other intervening motions.

Mr. Smith of Virginia: And, as I understand it, then there will be no opportunity to discuss the resolution itself on which we are about to vote?

The Speaker: Not under the standing rules of the House.

Mr. Smith of Virginia: Now, Mr. Speaker, a further parliamentary inquiry. Will it be in order to move the previous question on the resolution?

The Speaker: The Chair will state that under the rules of the House in a matter of this kind there is no debate and the previous question will not be in order.

Previous Question Vitiated by Unanimous-consent Request

§ 14.13 Unanimous consent was granted for the consideration of a substitute for an amendment adopted in the Committee of the Whole, even though the previous question had been ordered.(18)

On Aug. 22, 1944,(19) the Committee of the Whole was considering H.R. 5125, dealing with the disposal of surplus government property and plants.

The proceedings were as follows:

The Chairman:(20) The question now recurs on the adoption of the committee substitute.

The committee substitute was agreed to.

The Chairman: Under the rule, the Committee will rise.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Thomason, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee having had under consideration the bill (H.R. 5125) to provide for the disposal of surplus Government property and plants and for other purposes, pursuant to House Resolution 620, reported the same back to the House

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18. But see § 15.18, infra.
19. 90 Cong. Rec. 7215, 7216, 78th Cong. 2d Sess.
20. R. Ewing Thomason (Tex.).

with an amendment adopted in the Committee of the Whole.

[The special rule providing for the consideration of the bill specified that the committee substitute should be considered for amendment as an original bill, and that separate votes could be had in the House on any amendment adopted in the Committee of the Whole to the bill or committee substitute.]

The Speaker:(1) Under the rule, the previous question is ordered.

Under the rule, also, the substitute being considered as an original bill, any Member may ask for a separate vote on any amendment to the substitute.

Is a separate vote demanded on any amendment?

Mr. [Carter] Manasco [of Alabama]: Mr. Speaker, I ask for a separate vote on the so-called Mott amendment.

At the direction of the Speaker the Clerk read the amendment offered by Mr. James W. Mott, of Oregon. Mr. Warren G. Magnuson, of Washington, then rose.

Mr. Magnuson: Mr. Speaker——

The Speaker: For what purpose does the gentleman rise?

Mr. Magnuson: Mr. Speaker, I ask unanimous consent to submit at this time a substitute for the Mott amendment. . . .

The Speaker: Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. Magnuson: Mr. Speaker, I offer a substitute amendment.

The Clerk then read the substitute offered by Mr. Magnuson.

The Speaker: The question is on the substitute.

The substitute was agreed to.

§ 14.14 An objection was raised to a unanimous-consent request to permit one hour of debate on a motion to send a bill to conference, on which motion the previous question had been ordered after brief debate.

On July 9, 1970,(2) Mr. Thomas E. Morgan, of Pennsylvania, was recognized, and the following occurred:

Mr. Morgan: Mr. Speaker, pursuant to the provisions of clause 1, rule XX, and by direction of the Committee on Foreign Affairs, I move to take from the Speaker's table the bill (H.R. 15628) to amend the Foreign Military Sales Act, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The Speaker:(3) The gentleman from Pennsylvania (Mr. Morgan) is recognized for 1 hour on his motion.

Mr. Morgan: Mr. Speaker, I have no desire to use any time and there has been no request for any time, and in an effort to move the legislation along I will move the previous question.

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1. Sam Rayburn (Tex.).
2. 116 Cong. Rec. 23518, 23524, 91st Cong. 2d Sess.
3. John W. McCormack (Mass.).

However, a brief debate ensued, after which the following occurred:

Mr. Morgan: Mr. Speaker, I move the previous question on the motion.

The Speaker: The question is on ordering the previous question. . . .

The question was taken; and there were—yeas 247, nays 143, not voting 41. . . .

So the previous question was ordered. . . .

Mr. Morgan: Mr. Speaker, notwithstanding the fact that the previous question has been ordered on my motion to go to conference, I ask unanimous consent that there now be 1 hour of debate, one-half to be controlled by myself and one-half by the gentleman from Michigan (Mr. Riegle) who has announced that he will propose a motion to instruct the conferees.

The Speaker: Is there objection to the request of the gentleman from Pennsylvania?

Mr. [Durward G.] Hall [of Missouri]: Mr. Speaker, I object.

The Speaker: The question is on the motion offered by the gentleman from Pennsylvania (Mr. Morgan).

The motion was agreed to.

§ 15. Effect of Ordering Previous Question

Precluding Further Consideration

§ 15.1 Where the previous question is moved on a resolution and the pending amendment thereto, no further debate is in order unless the previous question is rejected.

On Sept. 17, 1965,(4) the House was considering House Resolution 585, dismissing five Mississippi election contests. Mr. Carl Albert, of Oklahoma, had offered an amendment to the pending resolution. The following then occurred:

Mr. Albert: Mr. Speaker, I move the previous question on the amendment and the resolution.

Mr. [James G.] Fulton of Pennsylvania: Mr. Speaker, I am on my feet. I rise in opposition to the amendment.

The Speaker:(5) The gentleman from Pennsylvania rises in opposition. The Chair advises the gentleman that under the rules he cannot be recognized unless time is yielded to him. The gentleman from Oklahoma has moved the previous question on the amendment and the resolution.

Mr. Fulton of Pennsylvania: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Fulton of Pennsylvania: Will this amendment foreclose the resolution of Mr. Ryan being brought up by action of the House in the affirmative on this resolution?

The Speaker: That is a matter for the House to determine in carrying out its will.

The question is on the motion of the gentleman from Oklahoma ordering

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4. 111 Cong. Rec. 24291, 89th Cong. 1st Sess.

5. John W. McCormack (Mass.).

the previous question on the amendment and the resolution.

The previous question was ordered.

The Speaker: The question is on the amendment.

The amendment was agreed to.

§ 15.2 The demand for the previous question precludes further debate on the question of passing a bill over a Presidential veto.

On June 16, 1948,(6) the House was considering the veto of H.R. 6355, providing supplemental appropriations for the Federal Security Agency for fiscal 1949. The following took place:

The Speaker:(7) The unfinished business is consideration of the President's veto of H.R. 6355.

The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Mr. [Frank B.] Keefe [of Wisconsin]: Mr. Speaker, the President vetoed the bill H.R. 6355, which carries nearly $1,000,000,000 of appropriations for functioning of the Social Security Administration, some portions of the Public Health Service and the United States Employment Service in the Department of Labor. This is the question before the House.

Mr. Speaker, I move the previous question.

Mr. [John J.] Rooney [of New York]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Rooney: Mr. Speaker, under the rules is not the majority granted the privilege of discussing this message?

The Speaker: If the gentleman from Wisconsin withdraws his moving of the previous question it would be in order. Otherwise it is not in order.

§ 15.3 Demanding the previous question on a measure precludes further amendments thereto.

On June 12, 1961,(8) the House was considering H.R. 7053, relating to the admission of certain evidence in the courts of the District of Columbia. The following occurred:

Mr. [John L.] McMillan [of South Carolina]: Mr. Speaker, I move the previous question.

Mr. [William C.] Cramer [of Florida]: Mr. Speaker, will the gentleman yield for the purpose of offering an amendment?

The Speaker Pro Tempore:(9) Does the gentleman from South Carolina yield to the gentleman from Florida for the purpose of offering an amendment?

Mr. McMillan: Mr. Speaker, as I understand the parliamentary situation, I have moved the previous question. . . .

Mr. Cramer: Mr. Speaker, a parliamentary inquiry.

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6. 94 Cong. Rec. 8473, 80th Cong. 2d Sess.
7. Joseph W. Martin, Jr. (Mass.).
8. 107 Cong. Rec. 10080, 87th Cong. 1st Sess.
9. W. Homer Thornberry (Tex.).

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. CRAMER: Mr. Speaker, I have previously announced I would offer an amendment to make it applicable nationwide in conformance with a bill reported by the Committee on the Judiciary. Could the Chair advise me as to when and if such an amendment is in order and under what circumstances?

THE SPEAKER PRO TEMPORE: The Chair will state that the amendment can be offered only if the previous question is voted down.

MR. CRAMER: I thank the Chair.

§ 15.4 The motion to amend the Journal may not be admitted after the previous question is demanded on the motion to approve.

On Sept. 13, 1965,(10) after the Clerk concluded reading the Journal the following occurred:

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I move that the Journal be approved as read; and on that I move the previous question.

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, I move that that motion be laid on the table; and I offer an amendment to the Journal.

THE SPEAKER:(11) The Chair will state that the motion to lay on the table is in order, but the amendment is not in order.

What is the motion of the gentleman from Missouri?

MR. HALL: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. HALL: Mr. Speaker, during the reading of the Journal, section by section, I asked at what time it might be amended; and if I understood the distinguished Speaker correctly he said that if such an amendment were submitted by the gentleman from Missouri or any other person at any time it would be in order at the end of the reading of the Journal.

THE SPEAKER: The gentleman from Missouri has a correct recollection of what the Chair said at that time. However, the gentleman from Oklahoma [Mr. Albert] has made a motion that the Journal as read be approved and upon that he has moved the previous question.

§ 15.5 After the previous question is moved, an amendment may be offered to a pending resolution only if the previous question is voted down.

On Mar. 9, 1967,(12) the House was considering House Resolution 376, providing special counsel for the House, the Speaker, and other Members named in the action brought by Adam Clayton Powell, Jr., former Representative from the State of New York. After debating the resolution for one hour, Mr. Hale Boggs, of Louisiana, the proponent of the resolution, moved the previous question

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10. 111 CONG. REC. 23600, 23601, 89th Cong. 1st Sess.

11. John W. McCormack (Mass.).

12. 113 CONG. REC. 6035–42, 6048, 6049, 90th Cong. 1st Sess.

thereon. Mr. Joe D. Waggonner, Jr., of Louisiana, rose with a parliamentary inquiry.

> Mr. Waggonner: Mr. Speaker, is the House of Representatives considering this resolution as a privileged resolution?
>
> The Speaker:(13) This concerns the privileges of the House.
>
> Mr. Waggonner: Will there be opportunity to amend this resolution if the previous question is not voted down?
>
> The Speaker: That depends on the action taken by the House in connection with the previous question.
>
> Mr. [Byron G.] Rogers of Colorado: Mr. Speaker, a parliamentary inquiry.
>
> The Speaker: The gentleman will state his parliamentary inquiry.
>
> Mr. Rogers of Colorado: If we vote down the previous question, then we have the resolution before us and we can then amend it; can we not?
>
> The Speaker: The resolution will be before the House for such action as the House desires to take.(14)

§ 15.6 The stage of disagreement having been reached and the previous question having been demanded on the motion to recede [the motion to recede and concur in the Senate amendment having been divided], the Chair informed a Member seeking recognition to offer "a substitute" motion that the previous question had been demanded.

On May 14, 1963,(15) the House was considering H.R. 5517, providing supplemental appropriations for fiscal 1963. The following occurred:

> Mr. [Albert] Thomas [of Texas]: Mr. Speaker, perhaps I used the wrong terminology a little while ago. I am going to move the previous question and then the vote, as I understand it, will come on the motion to recede and we should recede and I hope the membership will vote "aye." When we do that, then I will offer a motion to concur with an amendment.
>
> Mr. Speaker, I move the previous question.
>
> Mr. [H. R.] Gross [of Iowa]: Mr. Speaker, I would like to offer a substitute for the Barry motion.
>
> The Speaker:(16) The gentleman from Texas has moved the previous question.

§ 15.7 The ordering of the previous question prevents further debate and the offering of amendments.

On May 31, 1932,(17) the House was considering House Resolution

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13. John W. McCormack (Mass.).
14. See also 111 Cong. Rec. 19, 20, 89th Cong. 1st Sess., Jan. 4, 1965; and 107 Cong. Rec. 10080, 87th Cong. 1st Sess., June 12, 1961.
15. 109 Cong. Rec. 8508, 88th Cong. 1st Sess.
16. John W. McCormack (Mass.).
17. 75 Cong. Rec. 11681, 72d Cong. 1st Sess.

235, authorizing an investigation of government competition with private enterprise. The following occurred:

Mr. [Edward W.] Pou [of North Carolina]: Mr. Speaker, I move the previous question.

The previous question was ordered.

The Speaker Pro Tempore:[18] The question is on the passage of the resolution.

Mr. [Burton L.] French [of Idaho]: Mr. Speaker, I offer an amendment which I send to the desk.

The Speaker Pro Tempore: The previous question has been ordered. The previous question having been ordered, no amendment is in order at this time.

Mr. French: Mr. Speaker, let me make inquiry. I understand that all debate is cut off on the resolution, but a Member has the privilege of offering an amendment.

The Speaker Pro Tempore: Under the rules of the House, not only is debate cut off but all power to offer amendments is cut off by the ordering of the previous question.

Mr. French: The Speaker is quite right. I have confused the motion for the previous question with the common motion to close debate. I desired to offer an amendment which would limit the expenditure.

The Speaker Pro Tempore: The gentleman might have opposed the previous question.

Effect on Amendments Between the Houses

§ 15.8 After the previous question has been ordered on a motion to recede and concur, no further debate is in order on that motion.

On Aug. 26, 1960,[19] the House had agreed to the conference report on H.R. 12619, providing appropriations for the mutual security program for fiscal 1961, and had begun considering amendments in disagreement when the following took place:

Mr. [Otto E.] Passman [of Louisiana]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Passman moves that the House recede from its disagreement to the amendment of the Senate numbered 3 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert ", including not less than $35,000,000 for Spain."

Mr. [Silvio O.] Conte [of Massachusetts]: Mr. Speaker——

The Speaker:[20] For what purpose does the gentleman rise?

Mr. Conte: To object to the amendment.

Mr. Passman: Mr. Speaker, I move the previous question on the motion.

The Speaker: Without objection the previous question is ordered.

There was no objection.

Mr. Conte: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman just asked for a vote on it.

Mr. Conte: Can we debate it?

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[18] Loring M. Black (N.Y.).

[19] 106 Cong. Rec. 17869, 17870, 86th Cong. 2d Sess.

[20] Sam Rayburn (Tex.).

THE SPEAKER: Not after the previous question is ordered.(1)

Effect on Motion to Reconsider

§ 15.9 Where a resolution (providing for the order of business) had been agreed to without debate and without the ordering of the previous question, a motion to reconsider the vote thereon was ruled debatable.

On Sept. 13, 1965,(2) the House had voted to adopt House Resolution 506, providing for consideration of H.R. 10065, the Equal Employment Opportunity Act of 1965. Mr. William M. McCulloch, of Ohio, rose to his feet.

MR. MCCULLOCH: Mr. Speaker, was the previous question ordered on the question to adopt the resolution that has just been voted on?

THE SPEAKER:(3) It was not.

MR. MCCULLOCH: Mr. Speaker, having voted in the affirmative, I now move that the vote by which House Resolution 506 was adopted be now reconsidered.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I move that the motion be laid upon the table.

MR. MCCULLOCH: Mr. Speaker, I ask for the yeas and nays.

THE SPEAKER: The question is on the motion offered by the gentleman from Oklahoma [Mr. Albert].

MR. [MELVIN R.] LAIRD [of Wisconsin]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The Chair is in the process of counting.

Evidently a sufficient number have risen, and the yeas and nays are ordered.

MR. LAIRD: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. LAIRD: Mr. Speaker, on the resolution just passed no one was allowed to debate that resolution on behalf of the minority or the majority. If this motion to table, offered by the gentleman from Oklahoma [Mr. Albert] is defeated, then there will be time to debate the resolution just passed.

The question of reconsideration is debatable, and it can be debated on the merits of the legislation which has not been debated by the House.

THE SPEAKER: What part of the gentleman's statement does he make as a parliamentary inquiry?

MR. LAIRD: Mr. Speaker, if the motion to debate is defeated, the motion to reconsider will give us an opportunity to debate the question on the resolution.

THE SPEAKER: Under the present circumstances, the motion to reconsider would be debatable.

Debate on Amendment to Resolution

§ 15.10 Where a member of the Committee on Rules calling up a resolution reported by that committee offers an amendment to such a resolution, the amend-

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1. See also 104 CONG. REC. 19618, 85th Cong. 2d Sess., Aug. 23, 1958.
2. 111 CONG. REC. 23608, 89th Cong. 1st Sess.
3. John W. McCormack (Mass.).

ment is not debatable if the previous question has been moved and ordered.

On Mar. 11, 1941,[4] Mr. Edward E. Cox, of Georgia, called up House Resolution 120, providing for investigation of national defense. After the Clerk read the resolution, the following took place:

> MR. COX: Mr. Speaker, I have stated that the language proposed by the gentleman from New York [Mr. Wadsworth] is an improvement to this bill, and I offer it as an amendment to the bill, and, Mr. Speaker, I move the previous question on the amendment and the resolution.
>
> MR. [ANDREW J.] MAY [of Kentucky]: Mr. Speaker, I make the point of order that the resolution is not subject to amendment until the previous question has been disposed of.
>
> THE SPEAKER:[5] After the previous question is ordered amendments are not in order.
>
> MR. MAY: Certainly not.
>
> THE SPEAKER: It is in order for the gentleman from Georgia [Mr. Cox] to offer the amendment. The Clerk will report the amendment. . . .
>
> THE SPEAKER: The gentleman from Georgia [Mr. Cox] moves the previous question on the amendment and the resolution.
>
> MR. MAY: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. MAY: Mr. Speaker, I desire to inquire whether or not the amendment as offered is debatable before the previous question is voted upon.
>
> THE SPEAKER: The previous question has been moved. If the previous question is voted down, the amendment would be subject to debate. The question is on ordering the previous question.

§ 15.11 Where the House had ordered the previous question on an amendment in the nature of a substitute for a resolution and on the resolution, the Speaker indicated that no further amendment to the resolution would be in order.

On June 13, 1973,[6] the House was considering House Resolution 437, providing for consideration of H.R. 8410, which would permit a temporary increase in the public debt limitation. Mr. John B. Anderson, of Illinois, offered an amendment in the nature of a substitute to the pending resolution. After the amendment had been read and debated for one hour the following occurred:

> MR. [JOHN] ANDERSON of Illinois: . . . Mr. Speaker, I move the previous question of the amendment and on the resolution. . . .
>
> The vote was taken by electronic device, and there were—yeas 254, nays 160, not voting 19. . . .

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[4] 87 CONG. REC. 2189, 77th Cong. 1st Sess.

[5] Sam Rayburn (Tex.).

[6] 119 CONG. REC. 19343, 19344, 93d Cong. 1st Sess.

So the previous question was ordered. . . .

The Speaker:(7) The question is on the amendment in the nature of a substitute offered by the gentleman from Illinois (Mr. Anderson). . . .

The vote was taken by electronic device, and there were—yeas 248, nays 163, not voting 22. . . .

So the amendment in the nature of a substitute was agreed to. . . .

Mr. [Robert L.] Leggett [of California]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Leggett: We have now had one amendment to the rule. I am wondering at this point would another amendment for tax reform, as suggested by Mr. Reuss, be in order?

The Speaker: The answer is "no", because the previous question has been ordered on the resolution.(8)

§ 15.12 When the previous question is ordered on an amendment and the resolution to which it is offered, following acceptance or rejection of the amendment, the vote recurs immediately on the resolution.

On Mar. 1, 1967,(9) the House was considering House Resolution 278, relating to the right of Representative-elect Adam C. Powell, Jr., of New York, to be sworn in. Mr. Thomas B. Curtis, of Missouri, offered an amendment to the resolution and the previous question was ordered on both the amendment and the resolution. After a brief discussion, Mr. Charles E. Goodell, of New York, rose with a parliamentary inquiry:

> Mr. Goodell: Mr. Speaker, if the Curtis amendment which is now pending is defeated, then is it in order to move the previous question on the committee resolution?
>
> The Speaker:(10) If the amendment is defeated, the original resolution will be before the House for a vote.
>
> Mr. Goodell: For an immediate vote?
>
> The Speaker: Yes, for an immediate vote.
>
> Mr. Gerald R. Ford [of Michigan]: Mr. Speaker, a parliamentary inquiry.
>
> The Speaker: The gentleman will state it.
>
> Mr. Gerald R. Ford: If the amendment of the gentleman from Missouri prevails as a substitute for the committee resolution, then there will be an opportunity for a further vote, however?
>
> The Speaker: Then the question will occur on the adoption of the resolution, as amended.

Effect on Motion to Strike Enacting Clause

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7. Carl Albert (Okla.).
8. See also 113 Cong. Rec. 5036, 90th Cong. 1st Sess., Mar. 1, 1967; and 113 Cong. Rec. 28, 31–33, 90th Cong. 1st Sess., Jan. 10, 1967.
9. 113 Cong. Rec. 5036, 5037, 90th Cong. 1st Sess.
10. John W. McCormack (Mass.).

§ 15.13 A motion in the House to strike out the enacting clause is not in order where the previous question has been ordered on the bill and amendments thereto to final passage.

On Apr. 16, 1970,(11) the House was considering H.R. 16311, the Family Assistance Act of 1970. The following occurred:

> THE SPEAKER:(12) Under the rule, the previous question is ordered.
>
> The question is on the engrossment and third reading of the bill.
>
> [The bill was ordered to be engrossed and read a third time, and was read the third time.]
>
> THE SPEAKER: The question is on the passage of the bill.
>
> MR. [OMAR T.] BURLESON of Texas: Mr. Speaker a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state his parliamentary inquiry.
>
> MR. BURLESON of Texas: Mr. Speaker, I have a preferential motion which was not permitted to be made in the Committee of the Whole. The preferential motion is to strike the enacting clause. Is it in order in the House at this time?
>
> THE SPEAKER: Due to the fact that the previous question has been ordered on the bill to final passage, the motion is not in order at this time.

Effect When Ordered on Resolution and Pending Amendment

§ 15.14 A special rule reported by the Committee on Rules is subject to amendment unless the previous question is ordered.

On Apr. 15, 1936,(13) the House was considering House Resolution 475 providing for the consideration of S.J. Res. 234, to create a special committee to investigate lobbying activities. Mr. John J. O'Connor, of New York, offered an amendment to the resolution, which was read by the Clerk. Mr. Bertrand H. Snell, of New York, asked Mr. O'Connor to yield, and the following occurred:

> How can the gentleman present an amendment now if it is not a committee amendment?
>
> MR. O'CONNOR: I am presenting it on my own responsibility, the gentleman from Georgia [Mr. Cox], in charge of the rule, having yielded to me for that purpose.
>
> MR. SNELL: Then the rule is open for amendment.
>
> MR. O'CONNOR: The gentleman from Georgia yielded to me for this purpose, to offer an amendment.
>
> MR. [EDWARD E.] COX [of Georgia]: Mr. Speaker, I move the previous question.
>
> The previous question was ordered.
>
> MR. [BYRON B.] HARLAN [of Ohio]: A parliamentary inquiry. Mr. Speaker.
>
> THE SPEAKER:(14) The gentleman will state it.

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11. 116 CONG. REC. 12092, 91st Cong. 2d Sess.
12. John W. McCormack (Mass.).
13. 80 CONG. REC. 5535, 5536, 74th Cong. 2d Sess.
14. Joseph W. Burns (Tenn.).

Mr. Harlan: Is the previous question ordered on the amendment or on the resolution?

The Speaker: On both.

Mr. Snell: How can the previous question apply to both?

The Speaker: That was the motion of the gentleman from Georgia. . . .

Mr. Snell: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Snell: Mr. Speaker, I have always understood that when a rule is presented on the floor and the Member in charge of the rule opens it up for amendment, that it is then open to amendment on the part of anyone who desires to offer an amendment.

The Speaker: That is true, until the previous question has been ordered, and the previous question has here been ordered.

Mr. Snell: It has now, but when I originally asked the question it had not been ordered. I wanted to offer an amendment.

The Speaker: The Chair would have been glad to recognize the gentleman at that time, but the previous question which has been ordered prevents that now.

Mr. Snell: I know that when a rule is opened up for amendment anybody else can offer an amendment.

The Speaker: The gentleman's amendment would have been in order if the previous question had not been ordered, provided the amendment were germane.

Effect When "Considered as Ordered" Pursuant to Special Rule

§ 15.15 Where the House has agreed by unanimous consent to a request that debate shall be limited in time and confined to a resolution disposing of an election contest, and that the previous question shall be considered as ordered at the conclusion of such debate, a substitute amendment is not in order.

On Aug. 19, 1937,(15) the House was considering House Resolution 309, dealing with the election contest of Roy v Jenks. The following occurred:

> The Speaker:(16) The gentleman from North Carolina modifies his request and now asks unanimous consent that debate on the pending resolution shall be confined to the resolution, shall continue for 2 hours and 30 minutes, one-half to be controlled by himself and one-half by the gentleman from Massachusetts; that at the conclusion of this time the previous question shall be considered as ordered.
>
> Is there objection?
>
> Mr. [Charles L.] Gifford [of Massachusetts]: Mr. Speaker, reserving the right to object, may I be allowed to file a substitute motion during that period?
>
> Mr. [John H.] Kerr [of North Carolina]: I do not agree to that.
>
> The Speaker: Is there objection to the request of the gentleman from North Carolina?
>
> There was no objection.

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15. 81 Cong. Rec. 9356, 9374, 75th Cong. 1st Sess.

16. William B. Bankhead (Ala.).

Bills Reported From the Committee of the Whole

§ 15.16 Where the Committee of the Whole reports a bill to the House pursuant to a resolution which specifies that the "previous question shall be considered as ordered on the bill, etc." the bill is not open to further amendment in the House.

On Sept. 29, 1965,(17) the Committee of the Whole was considering H.R. 4644, providing home rule for the District of Columbia. After the bill was reported back to the House the following occurred:

> THE SPEAKER:(18) Under the rule, the previous question is ordered.
>
> The question is on the amendment.
>
> MR. [ABRAHAM J.] MULTER [of New York]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state his parliamentary inquiry.
>
> MR. MULTER: I am about to ask for the yeas and nays on the Multer amendment, as amended by the Sisk amendment. If that amendment is rejected on the rollcall vote, which I will ask for, will the pending business before the House then be H.R. 4644?
>
> THE SPEAKER: As introduced.
>
> MR. MULTER: Mr. Speaker, on the amendment I demand the yeas and nays.
>
> MR. GERALD R. FORD [of Michigan]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. GERALD R. FORD: If the Multer amendment as amended is defeated, we then go back to H.R. 4644. Is there an opportunity after that to amend or to further consider?
>
> THE SPEAKER: The response to that would be in the negative, because the previous question has been ordered.

§ 15.17 Unless the previous question is ordered on an amendment reported from the Committee of the Whole such amendment is subject to further consideration and debate in the House.

On Dec. 10, 1937,(19) the Committee of the Whole having had under consideration the bill, H.R. 8505, the farm bill, reported that bill back to the House with certain amendments. The following then occurred:

> MR. [MARVIN] JONES [of Texas]: Mr. Speaker, I move the previous question on all amendments except the Boileau amendment.
>
> The previous question on all amendments except the Boileau amendment was ordered. . . .
>
> MR. [GERALD J.] BOILEAU [of Wisconsin]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER:(20) The gentleman will state it.

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(17) 111 CONG. REC. 25438, 25439, 89th Cong. 1st Sess.

(18) John W. McCormack (Mass.).

(19) 82 CONG. REC. 1285, 1286, 75th Cong. 2d Sess.

(20) William B. Bankhead (Ala.).

Mr. Boileau: Mr. Speaker, the gentleman from Texas [Mr. Jones] has moved the previous question on all amendments except the Boileau amendment. I do not recall a similar situation since I have been a Member of the House, and I frankly confess I do not know the effect of the motion of the gentleman from Texas. I would appreciate it if the Speaker would explain to the Members of the House the present status of the Boileau amendment.

Am I correct in my understanding of the present situation that because of the previous question having been ordered on all amendments other than the Boileau amendment there is no longer opportunity for debate on such amendments, but that, the previous question not having been ordered on the Boileau amendment, there is opportunity for debate on it unless the previous question is ordered?

The Speaker: Unless the previous question is ordered on the Boileau amendment, if a Member should seek recognition to debate the amendment the Chair would recognize that right.

Unanimous Consent to Offer Amendment

§ 15.18 When the Chairman of the Committee of the Whole reports a bill back to the House pursuant to a resolution providing that the previous question shall be considered as ordered, further debate or amendments in the House are thereby precluded; and the Speaker has declined to entertain unanimous-consent requests that further amendments be in order.(1)

On Aug. 31, 1960,(2) the Committee of the Whole rose to report a price support bill to the House:

The Chairman:(3) There being no amendments, under the rule the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Keogh, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (S. 2917) to establish a price support level for milk and butterfat, pursuant to House Resolution 636, he reported the bill back to the House.

The Speaker:(4) Under the rule the previous question is ordered.

The question is on the third reading of the Senate bill.

The bill was read a third time.

Mr. [Carl H.] Andersen of Minnesota: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Andersen of Minnesota: Would it be possible by unanimous consent to return to the amendment stage?

The Speaker: It would not. The previous question has already been ordered. All amendments and all debate are exhausted.

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1. But see § 14.13, supra.
2. 106 Cong. Rec. 18748, 86th Cong. 2d Sess.
3. Eugene J. Keogh (N.Y.).
4. Sam Rayburn (Tex.).

The question is on the passage of the bill.

The question was taken; and on a division (demanded by Mr. Fulton) there were yeas 171, noes 32.

So the bill was passed, and a motion to reconsider was laid on the table.

Effect Where Several Amendments Are Pending

§ 15.19 Where the previous question is ordered on some of the amendments reported from the Committee of the Whole, they must be disposed of before further consideration of the remaining amendments may be had.

On Dec. 10, 1937,(5) the Committee of the Whole was considering H.R. 8505, the farm bill. After the Committee rose and reported back to the full House the following occurred:

MR. [MARVIN] JONES [of Texas]: Mr. Speaker, I move the previous question on all amendments except the Boileau amendment.

The previous question on all amendments except the Boileau amendment was ordered. . . .

THE SPEAKER:(6) Is a separate vote demanded on any amendment?

MR. [GERALD J.] BOILEAU [of Wisconsin]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. BOILEAU: Will there be an opportunity for a separate vote on the Boileau amendment?

MR. JONES: I may say to the gentleman I am about to ask for a separate vote on it.

MR. BOILEAU: I confess I am not familiar with the procedure in the situation now before the House as to the effect of ordering the previous question on all amendments except the Boileau amendment.

THE SPEAKER: The previous question has already been ordered by the House, thus bringing to an immediate vote all amendments except the so-called Boileau amendment. . . .

MR. BOILEAU: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it. . . .

MR. BOILEAU: If a motion for the previous question were made and the previous question ordered on the Boileau amendment, would that amendment then be in the same position before this body as the other amendments?

THE SPEAKER: It would, except the previous question has already been ordered on the other amendments, and under the present situation the amendments upon which the previous question is ordered will be put to a vote and disposed of before the Boileau amendment is before the House for consideration.

Effect on Motions to Resolve Into Committee of the Whole

§ 15.20 After the previous question is ordered on a bill to final passage, it is not in order to move that the House resolve

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(5) 82 CONG. REC. 1285, 1286, 75th Cong. 2d Sess.

(6) William B. Bankhead (Ala.).

itself into the Committee of the Whole for the further consideration of such bill.

On July 8, 1937,(7) the Committee of the Whole reported back to the House H.R. 3408 with an amendment to amend the Civil Service Act. The following occurred:

The Speaker:(8) Under the rule the previous question is ordered on the bill and amendment to final passage. . . .

The question is on the engrossment and third reading of the bill.

Mr. [Jack] Nichols [of Oklahoma]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Nichols: Mr. Speaker, would a motion be in order at this time that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H.R. 3408?

The Speaker: The Chair replies in the negative to that parliamentary inquiry.

Effect on Point of Order Against Amendment

§ 15.21 After the previous question has been ordered in the House, it is too late to interpose a point of order against an amendment reported from the Committee of the Whole.

On July 21, 1956,(9) the Committee of the Whole reported back to the House the bill H.R. 7992, to enact certain provisions included in the Department of Defense Appropriations Act and the Civil Functions Appropriations Act.

The Speaker:(10) Under the rule, the previous question is ordered.

Mr. [Frank T.] Bow [of Ohio]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Bow: The Committee has adopted an amendment which changes the rules of the House. My parliamentary inquiry is this: Is it proper at this time to again interpose a point of order against the report of the Committee on the ground that the rules have been changed in the Committee of the Whole?

The Speaker: The Committee of the Whole has reported an amendment. The Chair would be forced to hold that the point of order comes too late and will not lie at this time.

Effect on Bill Considered on Calendar Wednesday

§ 15.22 A bill considered under the Calendar Wednesday rule becomes unfinished business if the House adjourns after ordering the previous question thereon.

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7. 81 Cong. Rec. 6944, 6951, 6952, 75th Cong. 1st Sess.
8. William B. Bankhead (Ala.).
9. 102 Cong. Rec. 13857, 84th Cong. 2d Sess.
10. Sam Rayburn (Tex.).

On Feb. 22, 1950,(11) the House was considering H.R. 4453, the Federal Employment Practice Act. The bill was ordered to be engrossed and read a third time, after which the following occurred:

> MR. [ANDREW J.] BIEMILLER [of Wisconsin]: Mr. Speaker, I demand a reading of the engrossed copy of the bill. . . .
>
> MR. [CLARE E.] HOFFMAN of Michigan: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER:(12) The gentleman will state it.
>
> MR. HOFFMAN of Michigan: Is a motion to recommit in order at this time?
>
> THE SPEAKER: Not until after the third reading of the bill.
>
> MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. RANKIN: Mr. Speaker, that means the House will have to stay in session until the engrossed copy is secured?
>
> THE SPEAKER: It does not.
>
> MR. RANKIN: We cannot take a recess on Calendar Wednesday?
>
> THE SPEAKER: The House can adjourn.
>
> MR. RANKIN: We can adjourn but that ends Calendar Wednesday.
>
> THE SPEAKER: The previous question has been ordered and the next time the House meets, whether this week or any other week, it is the pending business. . . .
>
> The Chair wants all Members to understand that on the convening of the House at its next session, the final disposition of this matter is the pending business.

Effect on Motion to Recommit

§ 15.23 The Member offering a motion to recommit a bill with instructions may, at the conclusion of the 10 minutes of debate thereon, yield to another Member to offer an amendment to the motion if the previous question has not been ordered on the motion to recommit.

On July 19, 1973,(13) the House was considering House Resolution 8860, to amend and extend the Agriculture Act of 1970. Mr. Charles M. Teague, of California, offered a motion to recommit and controlled the floor for five minutes of debate in favor of his motion. Mr. William R. Poage, of Texas, then controlled the floor for five minutes in opposition to the motion to recommit. Mr. Gerald R. Ford, of Michigan, sought to have Mr. Poage yield the floor to him for the purpose of offering an amendment to the motion to recommit. The following occurred:

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(11) 96 CONG. REC. 2254, 81st Cong. 2d Sess.

(12) Sam Rayburn (Tex.).

(13) 119 CONG. REC. 24967, 93d Cong. 1st Sess.

Mr. Poage: Certainly I will yield, but I would like to hear the amendment.

The Speaker:(14) The gentleman is not in order. The gentleman from California (Mr. Teague) has control of the motion to recommit and can yield for that purpose if he desires to do so.

The gentleman from Texas now has the floor.

Mr. Poage: Mr. Speaker, I will not yield for a pig in a poke. I want to know what the gentleman is proposing.

The Speaker: The gentleman cannot yield for that purpose. The gentleman from California can yield for that purpose. . . . The time of the gentleman from Texas has expired.

Mr. [Wayne L.] Hays [of Ohio]: Mr. Speaker, a point of order.

The Speaker: The gentleman will state it.

Mr. Hays: Mr. Speaker, my point of order is that I do not believe the gentleman from California can yield for this purpose without getting unanimous consent.

The Speaker: The gentleman can yield for the purpose of an amendment, since he has the floor.

Mr. Teague of California: Mr. Speaker, I yield to the distinguished minority leader for the purpose of offering an amendment.

Mr. Gerald R. Ford: Mr. Speaker, I offer an amendment to the motion to recommit.

Mr. [John E.] Moss [of California]: Mr. Speaker, a point of order.

The Speaker: The gentleman will state it.

Mr. Moss: Mr. Speaker, my point of order is that the time of the gentleman from California had expired.

The Speaker: That does not keep him from yielding.

Mr. Moss: He has not got the floor.

The Speaker: The gentleman from California has the right to yield for an amendment, since he still has the floor as the previous question has not been ordered on the motion to recommit.

Ordered Prior to Motion to Recommit Conference Report

§ 15.24 A motion to recommit a conference report is not in order until the previous question has been ordered on the conference report.

On Dec. 15, 1970,(15) the House was considering the conference report on H.R. 17755, appropriations for the Department of Transportation for fiscal 1971. Mr. Sidney R. Yates, of Illinois, rose with a parliamentary inquiry:

Mr. Yates: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore:(16) The gentleman will state his parliamentary inquiry.

Mr. Yates: Mr. Speaker, as I understand, in order to have specific instructions given to the conferees it is necessary that the previous question be voted down; is that correct? I mean on the motion to recommit?

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14. Carl Albert (Okla.).

15. 116 Cong. Rec. 41502, 41503, 91st Cong. 2d Sess.

16. Wilbur D. Mills (Ark.).

The Speaker Pro Tempore: The Chair will state that the gentleman from Illinois is in error. The previous question on the conference report has to be ordered before there can be a motion to recommit.

§ 16. Offering Motion; Who May Offer

Member Controlling Debate

§ 16.1 The Member in control of debate may move the previous question and cut off debate, either before or after the adoption of the rules.

On Jan. 4, 1965,(17) the House was considering House Resolution 2, offered by the Majority Leader, Carl Albert, of Oklahoma, authorizing the Speaker to administer the oath of office to Mr. Richard L. Ottinger, of New York. The following occurred:

> Mr. [James C.] Cleveland [of New Hampshire]: Mr. Speaker, will the gentleman yield for a parliamentary inquiry?
>
> Mr. Albert: I yield for a parliamentary inquiry.
>
> Mr. Cleveland: If this resolution is adopted, will it be impossible for me to offer my own resolution pertaining to the same subject mattter, either as an amendment or a substitute?
>
> The Speaker:(18) If the resolution is agreed to, it will not be in order for the gentleman to offer a substitute resolution or an amendment, particularly if the previous question is ordered.
>
> Mr. Cleveland: Is it now in order, Mr. Speaker?
>
> The Speaker: Not unless the gentleman from Oklahoma yields to the gentleman for that purpose.
>
> Mr. Cleveland: Mr. Speaker, will the gentleman yield?
>
> Mr. Albert: The gentleman from Oklahoma does not yield for that purpose.
>
> Mr. Cleveland: Mr. Speaker, a parliamentary inquiry. Will there be any opportunity to discuss the merits of this case prior to a vote on the resolution offered by the gentleman from Oklahoma?
>
> The Speaker: The gentleman from Oklahoma has control over the time. Not unless the gentleman from Oklahoma yields for that purpose. . . .
>
> Mr. [Thomas G.] Abernethy [of Mississippi]: Mr. Speaker, a parliamentary inquiry.
>
> The Speaker: Does the gentleman from Oklahoma yield to the gentleman from Missisippi for the purpose of submitting a parliamentary inquiry?
>
> Mr. Albert: Mr. Speaker, I move the previous question on the resolution.
>
> The Speaker: The question is on the motion.
>
> The previous question was ordered.(19)

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17. 111 Cong. Rec. 20, 89th Cong. 1st Sess.

18. John W. McCormack (Mass.).

19. See also 116 Cong. Rec. 20876, 91st Cong. 2d Sess., June 23, 1970.

Member Yielding Floor for Amendment

§ 16.2 A Member controlling time for debate in the House may not yield to another Member to offer an amendment without losing the floor and the right to move the previous question.

On Mar. 13, 1939,(20) the House was considering House Resolution 113, providing for an investigation of the milk industry in the District of Columbia. Mr. Charles A. Halleck, of Indiana, was controlling the floor for debate when Mr. John Taber, of New York, rose with a parliamentary inquiry.

> MR. TABER: Mr. Speaker, if the gentleman from Indiana should yield to the gentleman from Wisconsin to offer an amendment, the gentleman from Indiana yields control of the floor under the rule.
>
> THE SPEAKER:(1) The Chair has already stated that.
>
> MR. TABER: And the right to move the previous question would vest in the gentleman from Wisconsin.
>
> THE SPEAKER: That is a correct interpretation of the rule.

§ 16.3 While the Member in charge of a resolution in the House ordinarily loses the floor and the right to move the previous question if he yields for an amendment, he may move the previous question on the resolution following disposition of the amendment where the proponent of the amendment has not done so and where no other Member seeks recognition.

On Apr. 29, 1971,(2) the House was considering House Resolution 274, providing funds for the Committee on Internal Security. With Mr. Frank Thompson, Jr., of New Jersey, in control of the resolution on the floor of the House the following occurred:

> MR. THOMPSON of New Jersey: . . . I now yield 2 minutes to the gentleman from Ohio for the purpose of offering an amendment.
>
> THE SPEAKER:(3) The gentleman from Ohio is recognized.
>
> MR. [WAYNE L.] HAYS [of Ohio]: Mr. Speaker, I have an amendment which I propose to offer. I want to read it to the House as the Clerk may have trouble with my handwriting. . . .
>
> THE SPEAKER: The gentleman from Ohio is recognized for 5 minutes in support of the amendment. . . .
>
> The question is on the amendment offered by the gentleman from Ohio (Mr. Hays) to the committee amendment. . . .
>
> The question was taken; and there were—yeas 257, nays 129, not voting 46. . . .
>
> So the amendment to the committee amendment was agreed to. . . .

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20. 84 CONG. REC. 2663–73, 76th Cong. 1st Sess.
1. William B. Bankhead (Ala.).
2. 117 CONG. REC. 12489, 12504, 12505, 92d Cong. 1st Sess.
3. Carl Albert (Okla.).

Mr. Thompson of New Jersey: Mr. Speaker, I move the previous question on the committee amendment, as amended, and on the resolution.

The previous question was ordered.

The Speaker: The question is on the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

§ 16.4 A Member who lost the floor on a resolution by yielding for an amendment was recognized to move the previous question on the resolution following rejection of the amendment, where no other Member sought recognition.

On June 2, 1971,[4] Mr. Kenneth J. Gray, of Illinois, was controlling House debate on House Resolution 449, which created additional positions and provided an overtime pay system for United States Capitol Police.

Mr. Gray: . . . Mr. Speaker, I yield to the gentleman from Missouri (Mr. Hall) for the purpose of offering an amendment.

Mr. [Durward G.] Hall [of Missouri]: Mr. Speaker, I offer an amendment. . . .

The Speaker:[5] The question is on the amendment offered by the gentleman from Missouri.

The amendment was rejected.

Mr. Gray: Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Member Yielding Floor for Debate

§ 16.5 The Member who yielded the floor to another Member for one hour of debate was recognized at the end of that hour to move the previous question.

On July 5, 1945,[6] Mr. Malcolm C. Tarver, of Georgia, offered a motion to correct the *Congressional Record* of July 2, 1945, to reflect a colloquy between Mr. Tarver and Mr. John E. Rankin, of Mississippi.

Mr. Tarver: . . . Mr. Speaker, I yield the floor.

Mr. Rankin: Mr. Speaker, I ask for recognition.

The Speaker:[7] The gentleman is recognized.

Mr. Rankin: For how long?

The Speaker: The gentleman may speak for an hour if he wishes.

After the hour's debate:

Mr. Tarver: Mr. Speaker, I move the previous question.

The previous question was ordered.

Member Having Floor to Offer a Motion

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[4] 117 Cong. Rec. 17502, 17504, 92d Cong. 1st Sess.

[5] Carl Albert (Okla.).

[6] 91 Cong. Rec. 7221–25, 79th Cong. 1st Sess.

[7] Sam Rayburn (Tex.).

§ 16.6 A Member having the floor to offer a motion may move the previous question thereon although another Member claims recognition to offer a motion of higher privilege; but the motion of higher privilege must be put before the previous question.

On Sept. 13, 1965,(8) at the conclusion of the reading of the Journal, Mr. Carl Albert, of Oklahoma, rose to his feet and made the following motions:

MR. ALBERT: Mr. Speaker, I move that the Journal be approved as read; and on that I move the previous question.

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, I move that that motion be laid on the table; and I offer an amendment to the Journal.

THE SPEAKER:(9) The Chair will state that the motion to lay on the table is in order, but the amendment is not in order.

What is the motion of the gentleman from Missouri?

MR. HALL: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. HALL: Mr. Speaker, during the reading of the Journal, section by section, I asked at what time it might be amended; and if I understood the distinguished Speaker correctly he said that if such an amendment were submitted by the gentleman from Missouri or any other person at any time it would be in order at the end of the reading of the Journal.

THE SPEAKER: The gentleman from Missouri has a correct recollection of what the Chair said at that time. However, the gentleman from Oklahoma [Mr. Albert] has made a motion that the Journal as read be approved and upon that he has moved the previous question.

MR. HALL: Then, Mr. Speaker, I move to table that motion.

THE SPEAKER: The question is on the motion to lay on the table the motion that the Journal be approved as read.

§ 17. Rights of Proponent of Motion

To Offer Motion to Amend

§ 17.1 The manager of a bill, recognized by the Chair in the expectation that he would move the previous question on a motion to recommit offered by the minority, moved instead to amend the motion, and was recognized for that purpose by the Chair.

On May 8, 1968,(10) the House was considering H.R. 17023, appropriations for certain independent offices for fiscal 1969. Mr. Frank T. Bow, of Ohio, offered a

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8. 111 CONG. REC. 23600, 23601, 89th Cong. 1st Sess.
9. John W. McCormack (Mass.).
10. 114 CONG. REC. 12262, 12263, 90th Cong. 2d Sess.

motion to recommit with instructions, and the following ensued:

THE SPEAKER:[11] The gentleman from Tennessee is recognized.

MR. [JOSEPH L.] EVINS of Tennessee: Mr. Speaker, I have an amendment to the motion to recommit.

MR. BOW: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. BOW: The motion to recommit being the prerogative of the minority, and the minority having exercised that prerogative, my parliamentary inquiry is as a matter of fact whether or not an amendment is in order, and if it is in order, whether the gentleman making it must indicate that he too is against the bill in its present form?

THE SPEAKER: In response to the inquiry of the gentleman from Ohio, the Chair will state to the gentleman that the motion to recommit is one with instructions. Since the previous question has not been ordered, it is open for amendment.

Precedence Relative to Question of Personal Privilege

§ 17.2 The Chair having recognized a Member in charge of a bill for the motion for the previous question, a Member may not be recognized to rise to a question of personal privilege based on certain remarks in the Record.

On June 30, 1939,[12] the House was considering the conference report on H.R. 3325, relating to the stabilization of the alteration of the weight of the dollar. After the Speaker, William B. Bankhead, of Alabama, recognized Mr. Andrew L. Somers, of New York, the following occurred:

MR. SOMERS of New York: Mr. Speaker, I move the previous question.

MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Speaker, I rise to a point of order.

THE SPEAKER: The gentleman will state it.

MR. HOFFMAN: I rise to a point of personal privilege because of certain remarks contained in the Congressional Record and ask to be allowed to state my question.

THE SPEAKER: The gentleman from New York has been recognized. The Chair cannot recognize the gentleman from Michigan for that purpose unless the gentleman from New York yields.

MR. SOMERS of New York: Mr. Speaker, I do not yield for that purpose.

MR. [JOSEPH W.] MARTIN [Jr.] of Massachusetts: Mr. Speaker——

THE SPEAKER: The Chair will at the proper time under the rules recognize the gentleman. The Chair has recognized the gentleman from New York. The gentleman from New York has moved the previous question on the conference report.

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[11] John W. McCormack (Mass.).

[12] 84 CONG. REC. 8467, 8468, 76th Cong. 1st Sess.

The question is, Shall the previous question be ordered?

§ 18. Time for Motion

Within Time Fixed for Debate

§ 18.1 Where the House by unanimous consent fixes time and control of debate, the previous question may be moved at any time within that period, and it is not necessary for the Member in charge to yield the full time agreed upon.

On Mar. 11, 1941,(13) the House was considering House Resolution 131 (providing for the consideration of H.R. 1776, relating to the promotion of national defense) pursuant to a unanimous-consent agreement which stipulated that debate was to continue not to exceed two hours. Before the expiration of the allotted time, Mr. Sol Bloom, of New York, made the following statement:

> Mr. Bloom: . . . Mr. Speaker, I do not desire to use any more time nor to yield any additional time, so I ask for a vote on the resolution.
>
> Mr. Martin J. Kennedy [of New York]: Mr. Speaker, a point of order.
>
> The Speaker:(14) The gentleman will state it.
>
> Mr. Martin J. Kennedy: Mr. Speaker, the House is proceeding in its consideration of the Senate amendments to H.R. 1776 under a unanimous-consent agreement granted yesterday—Monday, March 10. The minutes of this action may be found on pages 2142 and 2143 of the Congressional Record. I was present in the House at the time the request was made and, because of the understanding as to the division of time, I did not object. . . .
>
> Under the rules of the House, a proceeding by unanimous consent cannot be dissolved except by unanimous consent of the House. Therefore, the time of 2 hours, fixed for debate, not having elapsed, and with a proper request for time not being granted by the gentleman in charge of the time—the chairman of the Committee on Foreign Affairs—I make a point of order that the action of the chairman of the Committee on Foreign Affairs in moving the previous question prior to the expiration of the agreed time of only 2 hours is not in order and comes prematurely.
>
> The Speaker: The unanimous-consent request agreed to yesterday left control of the time in the hands of the gentleman from New York [Mr. Bloom] and the gentleman from New York [Mr. Fish]. At any time those gentlemen do not desire to yield further time, compliance with the request has been had.

During Debate on Motion to Postpone

§ 18.2 A Member moving to postpone further consideration of a veto message to a day certain

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13. 87 Cong. Rec. 2177, 2178, 77th Cong. 1st Sess.
14. Sam Rayburn (Tex.).

having been recognized, he may move the previous question on that motion at any time.

On June 23, 1970,⁽¹⁵⁾ the House received the vetoed message on H.R. 11102, the medical facilities construction and modernization amendments of 1970. The following then occurred:

> MR. [HARLEY O.] STAGGERS [of West Virginia]: Mr. Speaker, I move that further consideration of the veto message of the President be postponed until Thursday, June 25, 1970.
>
> Mr. Speaker, the reason I ask for this postponement is to serve notice on all Members of the House and to give everyone an opportunity to study the veto message and to participate in what I think is a highly important matter.
>
> Mr. Speaker, I move the previous question on the motion.
>
> The previous question was ordered.
>
> THE SPEAKER:⁽¹⁶⁾ The question is on the motion offered by the gentleman from West Virginia (Mr. Staggers).
>
> The motion was agreed to.
>
> A motion to reconsider was laid on the table.

Pending Offering of Amendment

§ 18.3 The previous question may be moved pending the offering of an amendment by a Member to whom the floor was yielded for that purpose, and the previous question must be voted down before that Member is recognized to offer the amendment.

On Nov. 8, 1971,⁽¹⁷⁾ the House was considering House Joint Resolution 191, proposing an amendment to the Constitution relating to a nondenominational prayer in public buildings. During the debate the following occurred:

> MR. [CHALMERS P.] WYLIE [of Ohio]: Mr. Speaker, I yield to the gentleman from Alabama (Mr. Buchanan) for the purpose of offering an amendment.
>
> MR. [JOHN H.] BUCHANAN [Jr.]: Mr. Speaker, I have an amendment at the desk.
>
> THE SPEAKER:⁽¹⁸⁾ Does the gentleman realize he will lose control of the time?
>
> MR. WYLIE: The gentleman realizes he loses control of the time. I do yield to the gentleman from Alabama for the purpose of offering an amendment.
>
> THE SPEAKER: The gentleman has yielded the floor.
>
> MOTION OFFERED BY MR. CELLER
>
> MR. [EMANUEL] CELLER [of New York]: Mr. Speaker, I move the previous question on House Joint Resolution 191.
>
> THE SPEAKER: The motion is completely and highly privileged and is in order.

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15. 116 CONG. REC. 20877, 91st Cong. 2d Sess.
16. John W. McCormack (Mass.).
17. 117 CONG. REC. 39945, 92d Cong. 1st Sess.
18. Carl Albert (Okla.).

PARLIAMENTARY INQUIRY

MR. GERALD R. FORD [of Michigan]: Mr. Speaker, a parliamentiary inquiry.

THE SPEAKER: The gentleman will state it.

MR. GERARD R. FORD: Mr. Speaker, if the previous question is voted down, does that permit the offering of an amendment by the gentleman from Alabama (Mr. Buchanan)?

THE SPEAKER: If it is voted down, any proper motion can be made.

The question is on the motion offered by the gentleman from New York (Mr. Celler).

The motion was rejected.

Time to Move Previous Question on Preamble

§ 18.4 A motion for the previous question on a pending resolution does not cover the preamble thereto unless the motion so provides; and a motion to order the previous question on the preamble is in order following the vote whereby the resolution is agreed to.

On Mar 1, 1967,(1) the House was considering House Resolution 278, relating to the rights of Representative-elect Adam Clayton Powell, Jr., of New York, to be sworn in. After the resolution and amendment were agreed to the following took place:

MR. [THOMAS B.] CURTIS [of Missouri]: Mr. Speaker, I move the previous question on the adoption of the preamble.

MR. [PHILLIP] BURTON of California: Mr. Speaker, a point of order.

THE SPEAKER:(2) The gentleman from California will state his point of order.

MR. BURTON of California: The gentleman from Missouri is urging a motion that duplicates an action already taken by the House. The House already has had a motion to close debate on the preamble and on the resolution as amended.

We have already had that vote. I make the point of order that the gentleman's request and/or motion is out of order. I think the record of the proceedings of the House will indicate that the point being advocated reflects accurately the proceedings as they have transpired.

THE SPEAKER: The Chair will state that the previous question was ordered on the amendment and the resolution but not on the preamble.

§ 19. Relation to Other Matters

Privilege of Motion Over Recognition of Member of Debate

§ 19.1 The motion for the previous question is privileged and is in order before a Member is recognized for debate.

On Apr. 1, 1938,(3) the House was considering S. 3331, a reorga-

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1. 113 CONG. REC. 5038, 5039, 90th Cong. 1st Sess.
2. John W. McCormack (Mass.).
3. 83 CONG. REC. 4616, 75th Cong. 3d Sess.

nization bill. Mr. John J. Cochran, of Missouri, spoke:

> MR. COCHRAN: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill S. 3331; pending that, I move that general debate in the Committee of the Whole House on the state of the Union on the bill (S. 3331) do now close, and on that motion I move the previous question.
>
> MR. [JOHN J.] O'CONNOR of New York: Mr. Speaker, I ask recognition.
>
> MR. COCHRAN: Mr. Speaker, on that motion I have moved the previous question.
>
> MR. O'CONNOR of New York: Mr. Speaker, I asked recognition before the previous question was moved.
>
> THE SPEAKER:(4) The gentleman from Missouri moves that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill S. 3331; pending that, the gentleman moves that general debate in the Committee of the Whole House on the state of the Union on the bill S. 3331 do now close, and on that motion he moves the previous question.
>
> MR. O'CONNOR of New York: Mr. Speaker, before the gentleman moved the previous question I asked recognition.
>
> THE SPEAKER: The gentleman from Missouri moved the previous question.
>
> MR. O'CONNOR of New York: I asked recognition, Mr. Speaker, before the gentleman moved the previous question.
>
> THE SPEAKER: The motion for the previous question takes precedence.

As Related to Amendment to Resolution

§ 19.2 An amendment to the body of a resolution reported by the Committee on Rules is properly offered before the previous question is moved.

On Feb. 28, 1949,(5) Mr. John E. Lyle, Jr., of Texas, called up House Resolution 44 (relating to the Panama Canal) which had been reported from the Committee on Rules. After he controlled a brief debate, Mr. Lyle stated that he had no further demands for time, and posed a parliamentary inquiry.

> MR. LYLE: At what time would an amendment be proper? Now, or after the previous question has been ordered?
>
> THE SPEAKER:(6) An amendment to the body of the resolution should be offered now.

As Related to Administration of House Oath

§ 19.3 A question involving the swearing in of a Member-elect was permitted after the previous question had been ordered on the pending question.

On Oct. 3, 1969,(7) the Committee of the Whole reported back to the House the bill H.R. 14000, the Military Procurement Act for fiscal 1970, and the Speaker, John W. McCormack, of Massachusetts, stated that under the rule the previous question was ordered. The following then occurred:

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(4) William B. Bankhead (Ala.).

(5) 95 CONG. REC. 1617, 1619, 81st Cong. 1st Sess.

(6) Sam Rayburn (Tex.).

(7) 115 CONG. REC. 28487, 91st Cong. 1st Sess.

> Mr. [Carl] Albert [of Oklahoma]: Mr. Speaker, I ask unanimous consent that the gentleman from Massachusetts, Mr. Michael J. Harrington, be permitted to take the oath of office today. His certificate of election has not arrived, but there is no contest, and no question has been raised with regard to his election.
>
> The Speaker: Is there objection to the request of the gentleman from Oklahoma?
>
> There was no objection.
>
> Mr. Harrington appeared at the bar of the House and took the oath of office.

As Related to Senate Messages

§ 19.4 A message from the Senate may be received by the House after the previous question has been ordered, pending the question of passage of the bill.

On Oct. 3, 1969,(8) the Committee of the Whole having considered H.R. 14000, dealing with military procurement authorizations for fiscal 1970, reported the bill back to the House.

> The Speaker:(9) Under the rule, the previous question is ordered.
>
> Message From the Senate
>
> A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:
>
> > S. 2917. An act to improve the health and safety conditions of persons working in the coal mining industry of the United States.(10)

§ 20. Relation to Other Motions

Relation to Motion to Table

§ 20.1 The motion to lay on the table takes precedence over the motion for the previous question, and if the motion to table is rejected, the question recurs on the motion for the previous question which was pending when the motion to table was offered.

On May 11, 1972,(11) the House was considering S. 659, the higher education amendments. Mr. Joe D. Waggonner, Jr., of Louisiana, offered a motion to instruct the House managers at the conference

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8. 115 Cong. Rec. 28487, 91st Cong. 1st Sess.

9. John W. McCormack (Mass.).

10. See also 107 Cong. Rec. 7172, 87th Cong. 1st Sess., May 3, 1961.

11. 118 Cong. Rec. 16838-42, 92d Cong. 2d Sess.

on the disagreeing votes of the two Houses, and was recognized for one hour, after which the following occurred:

> MR. WAGGONNER: . . . Mr. Speaker, I move the previous question and ask that we instruct the conferees.
>
> MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, I move that the motion of the gentleman from Louisiana to instruct the conferees be laid on the table.
>
> THE SPEAKER:(12) The question is on the motion to table offered by the gentleman from Illinois (Mr. Yates). . . .
>
> The question was taken; and there were—yeas 126, nays 273, not voting 32. . . .
>
> So the motion to table was rejected. . . .
>
> The previous question was ordered.(13)

Relation to Motions to Amend

§ 20.2 The motion for the previous question takes precedence over a motion to amend.

On Nov. 8, 1971,(14) the House was considering House Joint Resolution 191, proposing an amendment to the Constitution relating to nondenominational prayer in public buildings. Mr. Chalmers P. Wylie, of Ohio, was controlling the floor, having called up the joint resolution following a successful motion to discharge the Judiciary Committee, when the following occurred:

> MR. WYLIE: Mr. Speaker, I yield to the gentleman from Alabama (Mr. Buchanan) for the purpose of offering an amendment.
>
> MR. [JOHN H.] BUCHANAN [Jr.]: Mr. Speaker, I have an amendment at the desk.
>
> THE SPEAKER:(15) Does the gentleman realize he will lose control of the time?
>
> MR. WYLIE: The gentleman realizes he loses control of the time. I do yield to the gentleman from Alabama for the purpose of offering an amendment.
>
> THE SPEAKER: The gentleman has yielded the floor.
>
> MOTION OFFERED BY MR. CELLER
>
> MR. [EMANUEL] CELLER [of New York]: Mr. Speaker, I move the previous question on House Joint Resolution 191.
>
> THE SPEAKER: The motion is completely and highly privileged and is in order.(16)

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12. Carl Albert (Okla.).

13. See also 116 CONG. REC. 41372–74, 91st Cong. 2d Sess., Dec. 14, 1970; 111 CONG. REC. 23600, 23601, 89th Cong. 1st Sess., Sept. 13, 1965; and 107 CONG. REC. 14947, 14958, 15001, 87th Cong. 1st Sess., Aug. 8, 1961.

14. 117 CONG. REC. 39945, 92d Cong. 1st Sess.

15. Carl Albert (Okla.).

16. See also 113 CONG. REC. 5038, 5039, 90th Cong. 1st Sess., Mar. 1, 1967; 98 CONG. REC. 9697, 82d Cong. 2d Sess., July 5, 1952; 91 CONG. REC. 8377–465, 79th Cong. 1st Sess., Sept. 6–10, 1945; and 89 CONG. REC. 7516, 78th Cong. 1st Sess., July 8, 1943.

§ 20.3 If the motion for the previous question on a resolution is voted down, the resolution is subject to amendment; but if the amendment is ruled out on a point of order, the previous question may again be moved and takes precedence over the offering of another amendment.

On Jan. 3, 1969,(17) the House voted down the previous question on a resolution offered by Mr. Emanuel Celler, of New York. Mr. Clark MacGregor, of Minnesota, was then recognized to offer an amendment to the resolution, but that amendment was ruled out on a point of order. Mr. Celler once again moved the previous question on his resolution and Mr. Gerald R. Ford, of Michigan, rose with a parliamentary inquiry.

MR. GERALD R. FORD: . . . At the time the Chair recognized the gentleman from Minnesota, the gentleman from Minnesota (Mr. MacGregor), sought to offer a resolution, but the Chair has just now ruled against the germaneness of the resolution. I ask the question does the gentleman from Minnesota under this set of circumstances lose the right to offer a substitute and also to have 1 hour's time?

THE SPEAKER:(18) The Chair will state in response to the parliamentary inquiry that at this point the motion on the previous question takes precedence over the motion to amend, and if the House wants to consider further amendment, the House can vote down the previous question.

MR. CELLER: Mr. Speaker, I move the previous question. . . .

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman from Iowa will state his parliamentary inquiry.

MR. GROSS: Mr. Speaker, is the Celler resolution now not subject to a substitute?

THE SPEAKER: Not if the previous question is ordered.

MR. GROSS: Mr. Speaker, I desire to offer a substitute which I have at the Clerk's desk.

THE SPEAKER: The gentleman from New York (Mr. Celler) has moved the previous question and the question now pending is on ordering the previous question.

Relation to Amendment to Motion to Recommit

§ 20.4 The motion for the previous question takes precedence over an amendment to a motion to recommit.

On Aug. 11, 1969,(19) the House was considering H.R. 12982, the District of Columbia Revenue Act of 1969. After the bill was read for a third time, Mr. Alvin E. O'Konski, of Wisconsin, offered a

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17. 115 CONG. REC. 25-27, 91st Cong. 1st Sess.

18. John W. McCormack (Mass.).

19. 115 CONG. REC. 23143, 91st Cong. 1st Sess.

motion to recommit the bill to the Committee on the District of Columbia.

Mr. [Brock] Adams [of Washington]: Mr. Speaker, I have an amendment to the motion to recommit.

Mr. [John L.] McMillan [of South Carolina]: Mr. Speaker, I move the previous question on the motion to recommit.

The Speaker:(20) The question is on ordering the previous question on the motion to recommit.

The question was taken; and on a division (demanded by Mr. Adams) there were—ayes 104, noes 65.

So the previous question was ordered.

The Speaker: The question is on the motion to recommit.

The motion to recommit was rejected.

The Speaker: The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.(1)

Relation to Amendment to Motion to Instruct Conferees

§ 20.5 The motion for the previous question takes precedence over an amendment to a motion to instruct conferees.

On July 24, 1973,(2) the House was considering S. 1888, to amend and extend the Agricultural Act of 1970. Mr. Robert D. Price, of Texas, offered a motion to instruct the House conferees at the conference on disagreeing votes of the two Houses on the bill. The following then occurred:

Mr. Price of Texas: . . . Mr. Speaker, I move the previous question on the motion.

The Speaker:(3) . . . The question is on ordering the previous question.

Mr. [Silvio O.] Conte [of Massachusetts]: Mr. Speaker, I have an amendment to the preferential motion.

The Speaker: The Chair will state that ordering the previous question is the business before the House at this time.

The question is on ordering the previous question. . . .

The vote was taken by electronic device; and there were—yeas 244, nays 155, present 1, not voting 33. . . .

So the previous question was ordered.

Relation to Motion to Amend Journal

§ 20.6 The motion to amend the Journal may not be admitted after the previous question is demanded on the motion to approve.

On Sept. 13, 1965,(4) after the Clerk concluded the reading of the

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20. John W. McCormack (Mass.).
1. See also 91 Cong. Rec. 2725, 79th Cong. 1st Sess., Mar. 24, 1945.
2. 119 Cong. Rec. 25539, 93d Cong. 1st Sess.
3. Carl Albert (Okla.).
4. 111 Cong. Rec. 23600, 23601, 89th Cong. 1st. Sess.

Journal, a motion was made that the Journal be approved as read:

> MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I move that the Journal be approved as read; and on that I move the previous question.
>
> MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, I move that that motion be laid on the table; and I offer an amendment to the Journal.
>
> THE SPEAKER:(5) The Chair will state that the motion to lay on the table is in order, but the amendment is not in order.

Relation to Member Recognized for Debate

§ 20.7 While the motion for the previous question takes precedence over the offering of an amendment, a Member recognized to debate an amendment may not be taken from the floor by the motion for the previous question.

On May 18, 1972,(6) the House was considering H.R. 14718, to provide public assistance to the mass transit bus companies in the District of Columbia. Speaker Carl Albert, of Oklahoma, recognized Mr. Thomas G. Abernethy, of Mississippi:

> MR. ABERNETHY: Mr. Speaker, I move to strike the last word.
>
> THE SPEAKER: The gentleman from Mississippi is recognized for 5 minutes. . . .
>
> MR. [EARLE] CABELL [of Texas]: Mr. Speaker, would a motion be in order to move the previous question on the amendment at this time in order to dispose of it?
>
> THE SPEAKER: The Chair will state to the gentleman that the gentleman from Mississippi has been recognized.
>
> MR. CABELL: Mr. Speaker, would a motion to vote on the pending amendment be in order, since the discussion is not on the amendment?
>
> THE SPEAKER: The Chair has control of the House and the Chair has recognized the gentleman from Mississippi (Mr. Abernethy).(7)

Relation to Motion to Strike Out Enacting Clause

§ 20.8 A motion for the previous question takes precedence over a motion to strike out the enacting clause.

On May 28, 1934,(8) the House was considering H.R. 5043, the District of Columbia taxicab insurance bill, and the following occurred:

> MR. [VINCENT L.] PALMISANO [of Maryland]: Mr. Speaker, I move the previous question on the bill and amendment thereto to final passage.
>
> MR. [WRIGHT] PATMAN [of Texas]: Mr. Speaker, would a motion to strike

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5. John W. McCormack (Mass.).
6. 118 CONG. REC. 16154, 16157, 92d Cong. 2d Sess.
7. See also 114 CONG. REC. 12262, 12263, 90th Cong. 2d Sess., May 8, 1968.
8. 78 CONG. REC. 9743, 73d Cong. 2d Sess.

out the enacting clause now be in order?

THE SPEAKER:(9) Such a motion is not now in order.

MR. PATMAN: Mr. Speaker, is not a motion to strike out the enacting clause a privileged motion?

THE SPEAKER: It does not have preference over a motion for the previous question.

MR. [THOMAS L.] BLANTON [of Texas]: We can vote down the previous question.

THE SPEAKER: The question is on ordering the previous question.

Relation to Motion to Adjourn

§ 20.9 The Speaker has refused to recognize for a motion to adjourn after the previous question has been ordered on a bill to final passage under a special rule prohibiting any intervening motion (see 4 Hinds' Precedents §§ 3211-3213).

§ 21. Debate

Debate on Motion for Previous Question

§ 21.1 A motion for the previous question is not debatable.

On Sept. 13, 1965,(10) after the Clerk finished reading the Journal the following occurred:

THE SPEAKER:(11) The question is on ordering the previous question.

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. HALL: Is not debate in order on this motion inasmuch as under section 805 of Jefferson's Manual there has been no debate on ordering the previous question?

THE SPEAKER: The Chair will state that the motion on the previous question is not debatable. The question is on ordering the previous question on the motion to approve the Journal. . . .

The question was taken; and there were—yeas 257, nays 126, answered "present" 1, not voting 48.(12)

Debate After Ordering Previous Question

§ 21.2 Where the previous question is ordered on a debatable proposition which has not in fact been debated, a Member may demand the right to 40 minutes of debate, and this time is divided between the person demanding the time and a Member who represents the opposing view of the matter [see Rule XXVII clause 3].

On Sept. 13, 1965,(13) the previous question was ordered on the

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9. Henry T. Rainey (Ill.).

10. 111 CONG. REC. 23601, 89th Cong. 1st Sess.

11. John W. McCormack (Mass.).

12. See also 95 CONG. REC. 10, 81st Cong. 1st Sess., Jan. 3, 1949.

13. 111 CONG. REC. 23602, 23604-06, 89th Cong. 1st Sess.

approval of the Journal as read before any debate had occurred on that question. Mr. Durward G. Hall, of Missouri, then rose to his feet.

> MR. HALL: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER:(14) The gentleman will state it.
>
> MR. HALL: May we not have debate at this time, under the rules of the House, under section 805, as quoted?
>
> THE SPEAKER: If a Member claims the right.
>
> MR. HALL: I make such a claim, Mr. Speaker.
>
> THE SPEAKER: The gentleman is recognized for 20 minutes. . . .
>
> The gentleman for Oklahoma [Mr. Albert] is recognized for 20 minutes.(15)

§ 21.3 Since the motion for the previous question is not debatable, a Member is not entitled to claim the right to debate it under Rule XXVII clause 3.

On Sept. 13, 1965,(16) after the conclusion of the reading of the Journal, the following occurred:

> THE SPEAKER:(17) The question is on ordering the previous question.
>
> MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. HALL: Is not debate in order on this motion inasmuch as under section 805 of Jefferson's Manual there has been no debate on ordering the previous question?
>
> THE SPEAKER: The Chair will state that the motion on the previous question is not debatable. The question is on ordering the previous question on the motion to approve the Journal. . . .
>
> The question was taken; and there were—yeas 257, nays 126, answered "present" 1, not voting 48.

§ 21.4 Parliamentarian's Note: The right to recognition for 20 minutes of debate under Rule XXVII clause 3 does not apply simply because the previous question is moved on a proposition on which there has been no debate; the right to 40 minutes of debate accrues only if the previous question is in fact ordered.

On May 14, 1963,(18) the House was considered H.R. 5517, providing supplemental appropriations for fiscal 1963. Mr. Albert Thomas, of Texas, moved that the House concur in the amendment of the Senate numbered 76 with an amendment, and before any

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14. John W. McCormack (Mass.).
15. See Rule XXVII clause 3, *House Rules and Manual* § 907 (1981).
16. 111 CONG. REC. 23601, 89th Cong. 1st Sess.
17. John W. McCormack (Mass.).
18. 109 CONG. REC. 8508-11, 88th Cong. 1st Sess.

debate had taken place on that motion he moved the previous question thereon. Mr. Thomas B. Curtis, of Missouri, then rose to his feet.

Mr. Curtis: Mr. Speaker, a parliamentary inquiry:

The Speaker:(19) The gentleman will state it.

Mr. Curtis: As I understand, any person seeking an opportunity for 20 minutes can have it because the previous question has been moved before there has been any debate on it.

The Speaker: Well, the Chair is not passing on that.

Mr. Curtis: Mr. Speaker, I ask for recognition for 20 minutes.

The Speaker: The previous question has not been ordered yet.

§ 21.5 Where the House refused to order the previous question on a motion to concur in a Senate amendment with an amendment, but did order the previous question on the offering of a substitute therefor before debate was had thereon, the action gave rise to 40 minutes' debate on the proposition.

On June 8, 1943,(20) the House was considering the conference report on H.R. 2714, urgent defense appropriations for 1943. After the House voted without debate to recede from its disagreement to a Senate amendment, Mr. Clarence Cannon, of Missouri, moved that the House concur in the Senate amendment with an amendment. Without intervening debate, he moved the previous question on his motion. After the motion for the previous question was rejected, the following occurred:

Mr. [John] Taber [of New York]: Mr. Speaker, I offer a substitute for the motion offered by the gentleman from Missouri.

The Clerk read as follows:

> Mr. Taber moves to substitute for the Cannon amendment an amendment as follows: Add to the language of the Senate amendment No. 5 the following: "or the Department of State or the Office of Strategic Services".

Mr. Taber: On that motion I move the previous question, Mr. Speaker.

The previous question was ordered.

The Speaker, Sam Rayburn, of Texas, having previously stated that time for debate is fixed when the previous question has been ordered, not when the motion therefor has been made,(1) indicated that there would be 20 minutes of debate on each side, and recognized Mr. Cannon for 20 minutes.

Previous Question Ordered Prior to Adoption of Rules

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19. John W. McCormack (Mass.).

20. 89 Cong. Rec. 5506, 5507, 5509, 5510, 78th Cong. 1st Sess.

1. *Id.* at p. 5507.

§ 21.6 Prior to the adoption of the rules, when the motion for the previous question is moved without debate, the 40 minutes' debate prescribed by the House rules during the previous Congress does not apply.

On Jan. 7, 1959,(2) Speaker Sam Rayburn, of Texas, was swearing in the Members of the Congress. Mr. John W. McCormack, of Massachusetts, offered House Resolution 1, providing for the swearing in of Mr. T. Dale Alford, of Arkansas, whose election to the 86th Congress had been subject to a challenge.

Mr. McCormack: Mr. Speaker, this resolution is in accord with existing precedents and, Mr. Speaker, I move the previous question on this resolution.

The previous question was ordered.

Mr. [Thomas P.] O'Neill [Jr., of Massachusetts]: Mr. Speaker, may I make an inquiry on a point of parliamentary procedure.

The Speaker: The gentleman will state it.

Mr. O'Neill: Mr. Speaker, when the previous order has been moved and there is no debate, under the rules of the House are we not entitled to 40 minutes debate?

The Speaker: Under the precedents, the 40-minute rule does not apply before the adoption of the rules.

The question is on the resolution.

The resolution was agreed to.

Previous Question Moved on Motion to Close Debate

§ 21.7 When the previous question is moved on a motion to close debate (a motion in itself not debatable), the rule providing for 40 minutes of debate on propositions on which the previous question has been ordered without prior debate does not apply and no debate is in order.

On Apr. 1, 1938,(3) the House was considering S. 3331, a reorganization bill, when Mr. John J. Cochran, of Missouri, rose to his feet:

Mr. Cochran: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill S. 3331; pending that, I move that general debate in the Committee of the Whole House on the state of the Union on the bill (S. 3331) do now close, and on that motion I move the previous question.

Mr. [John J.] O'Connor of New York: Mr. Speaker, I ask recognition.

Mr. Cochran: Mr. Speaker, on that motion I have moved the previous question.

Mr. O'Connor of New York: Mr. Speaker, I asked recognition before the previous question was moved.

The Speaker:(4) The gentleman from Missouri moves that the House resolve

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2. 105 Cong. Rec. 14, 86th Cong. 1st Sess.

3. 83 Cong. Rec. 4616, 75th Cong. 3d Sess.

4. William B. Bankhead (Ala.).

itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill S. 3331; pending that, the gentleman moves that general debate in the Committee of the Whole House on the state of the Union on the bill S. 3331 do now close, and on that motion he moves the previous question.

Mr. O'Connor of New York: Mr. Speaker, before the gentleman moved the previous question I asked recognition.

The Speaker: The gentleman from Missouri moved the previous question.

Mr. O'Connor of New York: I asked recognition, Mr. Speaker, before the gentleman moved the previous question.

The Speaker: The motion for the previous question takes precedence over any other motion.

Mr. O'Connor of New York: Mr. Speaker, I ask recognition under the 40-minute rule. It is well recognized in the House that there are 40 minutes of debate on a motion even under the previous question.

The Speaker: The Chair will read from a precedent directly involved on this proposition, Cannon's Precedents, section 2555, volume 8:

> When the previous question is ordered on the motion to close debate, the rule providing for 40-minute debate on propositions on which the previous question has been ordered without prior debate does not apply, and no debate is in order.

Mr. O'Connor of New York: Mr. Speaker, the previous question has not been ordered. May I suggest to the distinguished Speaker that he read the rule of the House as to the 40 minutes of debate before the previous question is ordered?

The Speaker: Under the general rules of the House the previous question is always a privileged motion. The gentleman from Missouri has exercised his right to move the previous question.

The question is on ordering the previous question on the motion of the gentleman from Missouri [Mr. Cochran] to close debate. . . .

The question was taken; and there were—yeas 149, nays 191, not voting 89.

Previous Question Ordered on Motion to Send Bill to Conference

§ 21.8 Objection has been raised to a unanimous-consent request to permit one hour of debate on a motion to send a bill to conference, on which the previous question had been ordered after a brief debate.

On July 9, 1970,(5) the House was considering H.R. 15628, to amend the Foreign Military Sales Act of 1970. Thomas E. Morgan, of Pennsylvania, the Chairman of the Committee on Foreign Affairs, offered a motion to take the bill from the Speaker's table with Senate amendments thereto, to disagree to the Senate amendments and to agree to conference

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5. 116 Cong. Rec. 23518, 23524, 91st Cong. 2d Sess.

asked by the Senate. The following then occurred:

> **The Speaker:**(6) The gentleman from Pennsylvania (Mr. Morgan) is recognized for 1 hour on his motion.
>
> **Mr. Morgan:** Mr. Speaker, I have no desire to use any time and there has been no request for any time, and in an effort to move the legislation along I will move the previous question. . . .
>
> Mr. Speaker, I move the previous question on the motion.
>
> **The Speaker:** The question is on ordering the previous question. . . .
>
> The question was taken; and there were—yeas 247, nays 143, not voting 41. . . .
>
> The result of the vote was announced as above recorded.
>
> The doors were opened.
>
> **Mr. Morgan:** Mr. Speaker, notwithstanding the fact that the previous question has been ordered on my motion to go to conference, I ask unanimous consent that there now be 1 hour of debate, one-half to be controlled by myself and one-half by the gentleman from Michigan (Mr. Riegle) who has announced that he will propose a motion to instruct the conferees.
>
> **The Speaker:** Is there objection to the request of the gentleman from Pennsylvania?
>
> **Mr. [Durward G.] Hall** [of Missouri]: Mr. Speaker, I object.

§ 22. Rejection of Motion as Permitting Further Consideration

Effect Prior to Adoption of House Rules

§ 22.1 Prior to the adoption of the rules, if the motion for the previous question is rejected, a pending resolution is open to any germane amendment.

On Jan. 10, 1967,(7) the House was considering House Resolution 7, adopting the rules for the 90th Congress. After Mr. Carl Albert, of Oklahoma, moved the previous question on the resolution, Mr. Silvio O. Conte, of Massachusetts, rose with a parliamentary inquiry:

> **Mr. Conte:** Mr. Speaker, if the previous question is not ordered, would it then be in order to move to amend the rules of the House to provide for a Select Committee on Standards and Conduct?
>
> **The Speaker:**(8) If the previous question is voted down, any germane amendment would be in order.(9)

§ 22.2 If the motion for the previous question on a resolution is voted down, the resolution is subject to amendment.

On Jan. 3, 1949,(10) the House was considering House Resolution

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6. John W. McCormack (Mass.).
7. 113 Cong. Rec. 28, 31–33, 90th Cong. 1st Sess.
8. John W. McCormack (Mass.).
9. See also 107 Cong. Rec. 23–25, 87th Cong. 1st Sess., Jan. 3, 1961.
10. 95 Cong. Rec. 10, 81st Cong. 1st Sess.

5, relating to the adoption of the rules for the 81st Congress. After offering the resolution, Mr. Adolph J. Sabath, of Illinois, moved the previous question thereon. Mr. John E. Rankin, of Mississippi, then rose:

> MR. RANKIN: Mr. Speaker, I offer a substitute.
>
> THE SPEAKER:(11) The gentleman from Illinois [Mr. Sabath] has moved the previous question.
>
> MR. RANKIN. Mr. Speaker, we have a right to be heard.
>
> THE SPEAKER: The previous question is not debatable.
>
> MR. [FRANCIS H.] CASE of South Dakota: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. CASE of South Dakota: Mr. Speaker, the parliamentary inquiry is, If the previous question should be voted down, then would it be possible to offer other amendments to the rules than the one proposed in the pending motion?
>
> THE SPEAKER: It would be.
>
> MR. RANKIN: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. RANKIN: Mr. Speaker, if the previous question is voted down, then my substitute would be in order?
>
> THE SPEAKER: An amendment would be in order.

Resolutions Being Considered by Unanimous Consent

§ 22.3 A resolution considered in the House by unanimous consent is subject to amendment if the previous question is rejected on the resolution.

On Oct. 9, 1973,(12) the House was considering House Resolution 582, relating to a sense of the House deploring the outbreak of hostilities in the Middle East. The Majority Leader, Thomas P. O'Neill, Jr., of Massachusetts, on behalf of himself and the Minority Leader, Gerald R. Ford, of Michigan, had offered the resolution and asked unanimous consent for its immediate consideration. The following then occurred:

> THE SPEAKER:(13) Is there objection to the request of the gentleman from Massachusetts? . . .
>
> MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state his parliamentary inquiry.
>
> MR. GROSS: Mr. Speaker, is this resolution subject to amendment?
>
> THE SPEAKER: If the unanimous-consent request for consideration of the resolution is granted and the previous question is not ordered, it is subject to an amendment being offered. . . .
>
> Is there objection to the request of the gentleman from Massachusetts?
>
> MR. GROSS: Mr. Speaker, I object.
>
> THE SPEAKER: Objection is heard.

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11. Sam Rayburn (Tex.).

12. 119 CONG. REC. 33348, 33349, 93d Cong. 1st Sess.

13. Carl Albert (Okla.).

Resolution Authorizing Administration of Oath

§ 22.4 A resolution authorizing the Speaker to administer the oath of office to a Representative-elect may be open to amendment if the House refuses to order the previous question thereon.

On Jan. 3, 1969,(14) the House was considering House Resolution 1, authorizing the Speaker to administer the oath of office to Representative-elect Adam Clayton Powell, Jr., of New York. Mr. H. R. Gross, of Iowa, proposed the following question:

> Mr. Gross: If I may proceed further, is the resolution subject to amendment, or must the previous question be voted down?
>
> The Speaker:(15) The Chair will state, in reply to the inquiry of the gentleman from Iowa, that the resolution is not subject to amendment unless the gentleman from New York should yield for that purpose during the hour's time and, in the absence of that, then the previous question would have to be voted down.

Resolution From Committee on Rules

§ 22.5 In response to a parliamentary inquiry the Speaker advised that if the previous question on a privileged resolution reported by the Committee on Rules were voted down, the resolution would be open to further consideration, amendment, and debate.

On Oct. 19, 1966,(16) the House was considering House Resolution 1013, establishing a Select Committee on Standards and Conduct. Mr. Wayne L. Hays, of Ohio, posed the following parliamentary inquiry:

> Mr. Hays: Mr. Speaker, if the previous question is refused, is it true that then amendments may be offered and further debate may be had on the resolution?
>
> The Speaker:(17) If the previous question is defeated, then the resolution is open to further consideration and action and debate.(18)

§ 22.6 In response to a parliamentary inquiry, the Speaker stated that if the previous question were voted down on a resolution providing a special rule for the consideration of a bill, any germane amendment offered to

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14. 115 Cong. Rec. 15, 22, 23, 91st Cong. 1st Sess.
15. John W. McCormack (Mass.).
16. 112 Cong. Rec. 27725, 89th Cong. 2d Sess.
17. John W. McCormack (Mass.).
18. See also 97 Cong. Rec. 11394, 11397, 11398, 82d Cong. 1st Sess., Sept. 14, 1951; 97 Cong. Rec. 9, 16–18, 82d Cong. 1st Sess., Jan. 3, 1951; and 81 Cong. Rec. 3283–90, 75th Cong. 1st Sess., Apr. 8, 1937.

the resolution would be in order.

On Oct. 8, 1968,(19) the House was preparing to consider House Resolution 1315, which provided for the consideration of Senate Joint Resolution 175, to suspend for the 1968 Presidential campaign the equal-time requirements of section 315 of the Communications Act of 1934. Mr. Gerald R. Ford, of Michigan, rose to the parliamentary inquiry:

> Mr. Gerald R. Ford: If the previous question is defeated and the rule is opened up, could an amendment be made to the rule to provide in the rule for the consideration of the clean elections bill?
>
> The Speaker Pro Tempore:(20) If that amendment were germane to the resolution it would be in order to consider it, yes.(1)

§ 22.7 The House having defeated the motion for the previous question on a resolution reported by the Committee on Rules then voted to table that resolution.

On Mar. 11, 1941,(2) the House was considering House Resolution 120, providing for investigation of the national defense. Mr. Edward E. Cox, of Georgia, offered an amendment to the resolution and moved the previous question on the amendment and the resolution. Mr. Andrew J. May, of Kentucky, then made the following parliamentary inquiry:

> Mr. May: Mr. Speaker, a parliamentary inquiry.
>
> The Speaker:(3) The gentleman will state it.
>
> Mr. May: Mr. Speaker, I desire to inquire whether or not the amendment as offered is debatable before the previous question is voted upon.
>
> The Speaker: The previous question has been moved. If the previous question is voted down, the amendment would be subject to debate. The question is on ordering the previous question.
>
> The question was taken; and the Speaker announced that the "ayes" seemed to have it.
>
> Mr. Cox. Mr. Speaker, I ask for the yeas and nays.
>
> The yeas and nays were ordered.
>
> The question was taken; and there were—yeas 112, nays 252, not voting 65. . . .
>
> So the motion for the previous question was rejected. . . .

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19. 114 Cong. Rec. 30092, 90th Cong. 2d Sess.
20. Wilbur D. Mills (Ark.).
1. See also 107 Cong. Rec. 19750, 19751, 19755, 19758, 19759, 87th Cong. 1st Sess., Sept. 15, 1961; 90 Cong. Rec. 5465-71, 5473, 78th Cong. 2d Sess., June 7, 1944; and 86 Cong. Rec. 5035-46, 76th Cong. 3d Sess., Apr. 25, 1940.
2. 87 Cong. Rec. 2189, 2190, 77th Cong. 1st Sess.
3. Sam Rayburn (Tex.).

Mr. May: Mr. Speaker, I move that House Resolution 120 be laid on the table.

The motion was agreed to.

A motion to reconsider was laid on the table.(4)

Concurrent Resolution Providing for Adjournment

§ 22.8 A concurrent resolution providing for an adjournment of the Congress to a day certain is subject to amendment if the previous question is not ordered.

On Sept. 22, 1950,(5) Mr. J. Percy Priest, of Tennessee, offered House Concurrent Resolution 287, providing for the adjournment of Congress until Nov. 27, 1950. After the Clerk read the resolution the following occurred:

Mr. Priest: Mr. Speaker, I move the previous question.

Mr. [John W.] Heselton [of Massachusetts]: Mr. Speaker, a parliamentary inquiry.

The Speaker:(6) The gentleman will state it.

Mr. Heselton: Mr. Speaker, is it possible to offer an amendment to the resolution at this point?

The Speaker: Inasmuch as the previous question has been moved, it is not in order; and, of course, if the previous question is ordered, it is not in order to offer amendments to the resolution.

Mr. Heselton: If the previous question is not ordered, then would an amendment be in order?

The Speaker: If the previous question is not ordered, then if the gentleman is recognized he may offer an amendment.

Amending Amendments to Resolutions

§ 22.9 A pending amendment to a resolution under consideration in the House is subject to further amendment if the proponent of the amendment yields for that purpose or the previous question is voted down.

On Jan. 3, 1969,(7) the House was considering House Resolution 1, offered by Mr. Emanuel Celler, of New York, authorizing the Speaker to administer the oath of office to Adam C. Powell, Jr., of New York, to which Mr. Clark MacGregor, of Minnesota, offered a substitute. Mr. H. R. Gross, of Iowa, rose with a parliamentary inquiry.

Mr. Gross: Mr. Speaker, is the Celler resolution as proposed, if amended by the MacGregor amendment, subject to substitution at this point?

The Speaker:(8) Does the gentleman inquire whether or not it is in order to offer an amendment to the MacGregor amendment?

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(4) See also 81 Cong. Rec. 3283-301, 75th Cong. 1st Sess., Apr. 8, 1937.

(5) 96 Cong. Rec. 15635, 81st Cong. 2d Sess.

(6) Sam Rayburn (Tex.).

(7) 115 Cong. Rec. 27-29, 91st Cong. 1st Sess.

(8) John W. McCormack (Mass.).

Mr. Gross: Whether it is in order to offer a substitute, Mr. Speaker, for the Celler resolution and the pending amendment.

The Speaker: The Chair will state that such an amendment is not in order at this time unless the gentleman from New Jersey yields for that purpose, or unless the previous question is defeated.

Mr. [Frank] Thompson [Jr.] of New Jersey: Mr. Speaker, will the gentleman yield for a parliamentary inquiry?

Mr. MacGregor: I yield to the gentleman from New Jersey (Mr. Thompson) only for the purpose of a parliamentary inquiry.

Mr. Thompson of New Jersey: Mr. Speaker, in the event that, following the hour's debate on the MacGregor motion, the previous question is defeated, would there not be another opportunity for another Member to offer an amendment to the Celler resolution?

The Speaker: The answer is that it would be in order, assuming that those things happened, to offer another amendment to the Celler resolution.(9)

Amendment Ruled Out on Point of Order

§ 22.10 If the motion for the previous question on a resolution is voted down, the resolution is subject to amendment; and if an amendment to a resolution is ruled out on a point of order, and the previous question on the resolution is moved and voted down, the offering of another amendment is in order.

On Jan. 3, 1969,(10) the House was considering House Resolution 1, offered by Mr. Emanuel Celler, of New York, authorizing the Speaker to administer the oath of office to Adam C. Powell, Jr., of New York. Mr. Gerald R. Ford, of Michigan, rose from his seat:

> Mr. Gerald R. Ford: Mr. Speaker, the House just a few moments ago defeated the previous question on the resolution offered by the gentleman from New York, and under the rules of the House and under the discretion given to the Speaker, the Speaker has the right to recognize the principal opponent of the resolution for 1 hour.
>
> At the time the Chair recognized the gentleman from Minnesota, the gentleman from Minnesota (Mr. MacGregor), sought to offer a resolution, but the Chair has just now ruled against the germaneness of the resolution. I ask the question does the gentleman from Minnesota under this set of circumstances lose the right to offer a substitute and also to have 1 hour's time?
>
> The Speaker:(11) The Chair will state in response to the parliamentary inquiry that at this point the motion on the previous question takes precedence over the motion to amend, and if the House wants to consider further

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9. See also 113 Cong. Rec. 6035–42, 6048, 6049, 90th Cong. 1st Sess., Mar. 9, 1967.

10. 115 Cong. Rec. 25–27, 91st Cong. 1st Sess.

11. John W. McCormack (Mass.).

amendment, the House can vote down the previous question.

Effect on Amendment Procedure in House After Committee of the Whole Rises

§ 22.11 During consideration of an appropriation bill in the Committee of the Whole, a Member announced that he would attempt in the House to defeat the previous question on the bill to final passage so that another Member might offer (and obtain a roll call vote on) an amendment rejected in the Committee of the Whole.

On Feb. 19, 1970,(12) the Committee of the Whole was considering H.R. 15931, appropriations for fiscal 1970 for the Departments of Labor and Health, Education, and Welfare. Mr. James G. O'Hara, of Michigan, made the following statement:

> MR. O'HARA: Mr. Chairman, I move to strike the requisite number of words.
>
> Mr. Chairman, as the one who made the point of order against the language on page 28, I want to assure the Members that the point of order was directed only to the second proviso on page 28 beginning at line 18. The gentleman from Michigan (Mr. William D. Ford) is correct. If any reduction is made in impacted area funds by the motion to recommit it would, under the language remaining on page 28, have to come entirely out of category B and would take out much of the amount that Mr. Steed put in.
>
> That is not why I rose, Mr. Chairman. I rose to inform the Members that an effort will be made to defeat the ordering of the previous question, after the Committee rises, so that the gentleman from California (Mr. Cohelan) will have an opportunity to reoffer his amendments in the House, his amendments that would insert at the beginning of the two Whitten provisions the words, "except as required by the Constitution."

Motion to Instruct Conferees

§ 22.12 If the previous question is voted down on a motion to instruct conferees, the motion is subject to germane amendment.

On May 29, 1968,(13) Mr. James A. Burke, of Massachusetts, offered a motion to instruct the conferees on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 15414, the Revenue and Expenditure Act of 1968. After the Clerk read the motion Mr. Burke moved the previous question. The following occurred:

> The previous question was ordered.
>
> THE SPEAKER:(14) For what purpose does the gentleman from New York rise?

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12. 116 CONG. REC. 4036, 91st Cong. 2d Sess.

13. 114 CONG. REC. 15499, 15500, 15511, 15512, 90th Cong. 2d Sess.

14. John W. McCormack (Mass.).

Mr. [William F.] Ryan [of New York]: Mr. Speaker, I was on my feet and seeking recognition.

The Speaker: The Chair is recognizing the gentleman.

Mr. Ryan: To propound a parliamentary inquiry.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. Ryan: Mr. Speaker, if the previous question is voted down would it be in order to move that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on the bill H.R. 15414, be instructed not to agree to any limitation on budget outlays—expenditures and net lending—during the fiscal year ending June 30, 1969?

The Speaker: The Chair will state to the gentleman from New York in response to his parliamentary inquiry that if the previous question had been voted down any motion that is germane would be in order.

Motion to Recede and Concur With Amendment

§ 22.13 A motion to recede and concur with an amendment to a Senate amendment in disagreement is subject to amendment if the previous question is voted down.

On Dec. 11, 1967,(15) the House was considering the conference report on H.R. 7977, the Postal Revenue and Federal Salary Act of 1967. Mr. Thaddeus J. Dulski, of New York, offered a motion that the House recede and concur with an amendment, and Mr. H. R. Gross, of Iowa, rose to a parliamentary inquiry:

Mr. Gross: Mr. Speaker, would the Senate amendment be subject to amendment if this motion is adopted, or prior to the adoption of this amendment?

The Speaker:(16) The motion is to recede from disagreement to the Senate amendment and concur therein with an amendment.

Mr. Gross: With an amendment?

The Speaker: Yes.

Mr. Gross: Would that be subject to an amendment, Mr. Speaker?

The Speaker: It would be, if the previous question on the motion is voted down.

Motion to Concur (or Agree)

§ 22.14 In response to a parliamentary inquiry, the Speaker stated that if the previous question were voted down on a resolution providing for agreeing to Senate amendments to a House bill, the resolution would be open to amendment.

On June 17, 1970,(1) the House was considering House Resolution

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15. 113 Cong. Rec. 35811-33, 35841, 35842, 90th Cong. 1st Sess.

16. John W. McCormack (Mass.).

1. 116 Cong. Rec. 20159, 20198-200, 91st Cong. 2d Sess.

914, concurring in Senate amendments to H.R. 4249, extending the Voting Rights Act of 1965. After Mr. Spark M. Matsunaga, of Hawaii, moved the previous question on the resolution, Mr. Gerald R. Ford, of Michigan, rose with a parliamentary inquiry.

> **Mr. Gerald R. Ford**: Mr. Speaker, a "no" vote on the previous question does give an opportunity for one of those who led the fight against the resolution to amend the resolution now pending before the House?
>
> **The Speaker**:(2) The Chair will state in response to the parliamentary inquiry of the gentleman from Michigan that if the previous question is voted down, the resolution is open to amendment. The Chair's response is the same response as given to the gentleman from Hawaii.

Conference Report

§ 22.15 The voting down of the previous question on a conference report merely extends time for debate and does not afford an opportunity to amend the report.

On Mar. 1, 1939,(3) the House was considering the conference report on the bill H.R. 3743, to provide appropriations for certain independent offices for 1940. The following discussion regarding the parliamentary situation occurred:

> **Mr. [John] Taber** [of New York]: I understand from the Parliamentarian that a vote against the previous question would simply prolong the debate and that the only way we can get at this situation is to vote down the conference report completely. . . .
>
> **Mr. [Clifton A.] Woodrum** of Virginia: Mr. Speaker, there is some confusion about the parliamentary situation. I ask unanimous consent to be permitted to submit a parliamentary inquiry, and that it not be taken out of the time that has been allotted for the consideration of the conference report.
>
> **The Speaker**:(4) Is there objection to the request of the gentleman from Virginia?
>
> There was no objection.
>
> **Mr. Woodrum** of Virginia: Mr. Speaker, it has been stated upon the floor by myself, and I think it was the general understanding of the rest of us, that in the event the previous question on the conference report were voted down the Senate amendments would then be open for separate consideration. Pursuant to the statement just made a few moments ago by the gentleman from New York, I discussed the matter with the Parliamentarian, and, as I understand the matter now, it appears that the only way the House could get a vote on this amendment would be to vote down the conference report; that then each Senate amendment would be before the House for separate consideration. My parliamentary inquiry is whether or not that is correct.
>
> **The Speaker**: The Chair is of opinion that the gentleman has very

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2. John W. McCormack (Mass.).
3. 84 Cong. Rec. 2085, 2086, 76th Cong. 1st Sess.
4. William B. Bankhead (Ala.).

clearly stated the parliamentary situation. The mere voting down of the previous question would not afford an opportunity to the House to open up a conference report for amendments. In other words, the Chair, under the precedents, is clearly of the opinion that the only way in which a separate vote could be obtained upon any Senate amendment would be to vote down the conference report; that voting down the previous question would not afford an opportunity for such consideration.

Mr. Woodrum of Virginia: So nothing will be gained by voting down the previous question.

The Speaker: It would merely extend the time for debate on the conference report.

Motion to Recommit Conference Report

§ 22.16 A motion to recommit a conference report is subject to amendment if the previous question is voted down.

On Aug. 16, 1950,[5] the House was considering the conference report on H.R. 6000, the Social Security Act amendments. After the previous question had been moved on the conference report Mr. Walter A. Lynch, of New York, rose with a parliamentary inquiry:

Mr. Lynch: As I understand the situation, the gentleman from Wisconsin [Mr. Byrnes] having made a motion to recommit, and the previous question being put, if the motion for the previous question is voted down, an amendment could be offered to the motion to recommit? Is my understanding correct?

The Speaker:[6] If the motion for the previous question is not adopted, an amendment to the motion would be in order.

Renewing Rejected Motion

§ 22.17 The previous question, although moved and rejected, may be renewed after intervening business.

On Jan. 3, 1969,[7] the House was considering House Resolution 1, relating to Representative-elect Adam C. Powell, Jr., of New York, taking the oath of office. Mr. Emanuel Celler, of New York, the proponent of the resolution, had earlier moved the previous question on the resolution, but the previous question was rejected. At that time Mr. Clark MacGregor, of Minnesota, offered a substitute for the resolution, but the substitute was ruled out on the point of order. The following then occurred:

Mr. Celler: Mr. Speaker, I move the previous question on the resolution.

Mr. Gerald R. Ford [of Michigan]: Mr. Speaker, a parliamentary inquiry.

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[5] 96 Cong. Rec. 12672, 81st Cong. 2d Sess.

[6] Sam Rayburn (Tex.).

[7] 115 Cong. Rec. 25, 91st Cong. 1st Sess.

The Speaker:[8] The gentleman from Michigan will state his parliamentary inquiry.

Mr. Gerald R. Ford: Mr. Speaker, the House just a few moments ago defeated the previous question on the resolution offered by the gentleman from New York, and under the rules of the House and under the discretion given to the Speaker, the Speaker has the right to recognize the principal opponent of the resolution for 1 hour.

At the time the Chair recognized the gentleman from Minnesota, the gentleman from Minnesota (Mr. MacGregor), sought to offer a resolution, but the Chair has just now ruled against the germaneness of the resolution. I ask the question does the gentleman from Minnesota under this set of circumstances lose the right to offer a substitute and also to have 1 hour's time?

The Speaker: The Chair will state in response to the parliamentary inquiry that at this point the motion on the previous question takes precedence over the motion to amend, and if the House wants to consider further amendment, the House can vote down the previous question.

§ 23. Rejection of Motion as Affecting Recognition

Opponents of Resolution

§ 23.1 If the previous question is voted down on a resolution before the House, recognition passes to the opponents of the resolution, and the Chair recognizes one of the leaders of the opposition and gives preference to a member of the minority if he actively opposed ordering the previous question.

On July 20, 1939,[9] the House was considering House Resolution 258, providing for an investigation of the National Labor Relations Board. Mr. Howard W. Smith, of Virginia, moved the previous question on the resolution and then posed a parliamentary inquiry:

> Mr. Smith of Virginia: If I understand the situation correctly, if the previous question is voted down, the control of the measure would pass to the gentleman from Illinois [Mr. Keller]; and the resolution would not be open to amendment generally, but only to such amendments as the gentleman from Illinois might yield for. Is my understanding correct, Mr. Speaker?
>
> The Speaker:[10] If the previous question is voted down it would not necessarily pass to the gentleman from Illinois; it would pass to the opponents of the resolution. Of course, a representative of the minority would have the first right of recognition.

§ 23.2 The previous question on a resolution being voted down, the Speaker recognized a

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[8] John W. McCormack (Mass.).

[9] 84 Cong. Rec. 9591, 9592, 76th Cong. 1st Sess.

[10] William B. Bankhead (Ala.).

Member opposed to the resolution to offer an amendment.

On Sept. 15, 1961,(11) the House was considering House Resolution 464, providing for consideration of H.R. 7927, providing for an adjustment of the postal rates. The following then occurred:

> MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, I find myself in somewhat of a dilemma. I am for this bill; but I am against the rule. . . .
>
> Mr. Speaker, will the gentleman yield for the purpose of offering an amendment to make this an open rule?
>
> MR. [B. F.] SISK [of California]: I do not yield for that purpose.
>
> Mr. Speaker, I move the previous question. . . .
>
> THE SPEAKER PRO TEMPORE:(12) . . . The question is on ordering the previous question.
>
> The question was taken; and there were—yeas 142, nays 222, answered "present" 2, not voting 71. . . .
>
> So the motion to order the previous question was rejected. . . .
>
> MR. COLMER: Mr. Speaker, I offer an amendment.

§ 23.3 The motion for the previous question having been rejected, the Speaker recognized the Minority Leader to offer an amendment to the pending resolution.

On Jan. 10, 1967,(13) the House was considering House Resolution 1, relating to the right of Representative-elect Adam C. Powell, Jr., of New York, to take the oath of office. After Mr. Morris K. Udall, of Arizona, moved the previous question on the resolution the following occurred:

> MR. GERALD R. FORD [of Michigan]: Mr. Speaker, on the vote on the previous question I demand the yeas and nays.
>
> The yeas and nays were ordered.
>
> The question was taken; and there were—yeas 126, nays 305, not voting 0. . . .
>
> So the motion was rejected. . . .
>
> THE SPEAKER:(14) The Chair recognizes the gentleman from Michigan [Mr. Gerald R. Ford].
>
> AMENDMENT OFFERED BY MR. GERALD R. FORD
>
> MR. GERALD R. FORD: Mr. Speaker, I offer a substitute for House Resolution 1.(15)

§ 23.4 Where the previous question is rejected on a pending resolution, the Speaker recognizes a Member opposed to the resolution who may offer an amendment; and the recognition of the Member is not pre-

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11. 107 CONG. REC. 19750, 19751, 19755, 19758, 19759, 87th Cong. 1st Sess.
12. John W. McCormack (Mass.).
13. 113 CONG. REC. 24–26, 90th Cong. 1st Sess.
14. John W. McCormack (Mass.).
15. See also 113 CONG. REC. 5019, 5029, 5036–38, 90th Cong. 1st Sess., Mar. 1, 1967.

cluded by the fact that he has been previously recognized and offered an amendment which was ruled out on a point of order.

On Jan. 3, 1969,(16) the House was considering House Resolution 1, authorizing the Speaker to administer the oath of office to Representative-elect Adam C. Powell, Jr., of New York. Mr. Clark Mac Gregor, of Minnesota, had offered an amendment to the resolution, but that amendment was ruled out on a point of order. Mr. Emanuel Celler, of New York, the proponent of the original resolution, then moved the previous question on his resolution. The following occurred:

> MR. CELLER: Mr. Speaker, I move the previous question and insist upon the previous question. . . .
>
> The question was taken; and there were—yeas 172, nays 252, not voting 4, not sworn 6. . . .
>
> So the previous question was not ordered. . . .
>
> MR. MACGREGOR: Mr. Speaker, I have pending at the Clerk's desk a resolution which I offer as a substitute for the resolution ruled out on the point of order, as an amendment to House Resolution 1.

After the Clerk read the substitute offered by Mr. MacGregor, the Speaker(17) stated, "The gentleman from Minnesota is recognized for one hour."

§ 23.5 Recognition to offer an amendment to a resolution called up prior to the adoption of the rules passes to a Member opposed to the resolution if the previous question is rejected.

On Jan. 10, 1967,(18) the House was considering House Resolution 1, relating to the right of Representative-elect Adam C. Powell, Jr., of New York, to take the oath of office. Mr. Joe D. Waggonner, Jr., of Louisiana, rose with a series of parliamentary inquiries.

> MR. WAGGONNER: Mr. Speaker, if the previous question is voted down would, then, under the rules of the House, amendments or substitutes be in order to the resolution offered by the gentleman from Arizona [Mr. Udall]?
>
> THE SPEAKER:(19) The Chair will state to the gentleman from Louisiana [Mr. Waggonner] that any germane amendment may be in order to that particular amendment.
>
> MR. WAGGONNER: Mr. Speaker, one further parliamentary inquiry.
>
> THE SPEAKER: The gentleman from Louisiana [Mr. Waggonner] will state his parliamentary inquiry.

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16. 115. CONG. REC. 25-29, 91st Cong. 1st Sess.

17. John W. McCormack (Mass.).

18. 113 CONG. REC. 14, 15, 90th Cong. 1st Sess.

19. John W. McCormack (Mass.).

Mr. Waggonner: Mr. Speaker, under the rules of the House would the option or priority or a subsequent amendment or a substitute motion lie with the minority?

The Speaker: The Chair will pass upon that question based upon the rules of the House. That would be a question that would present itself to the Chair at that particular time.

A direct answer to the question which has been posed by the gentleman from Louisiana [Mr. Waggonner] would be this: Until the situation arises an answer to the question which has been propounded by the gentleman from Louisiana [Mr. Waggonner] cannot be given by the Chair at this time. However, the usual procedure of the Chair has been to the effect that the Member who led the fight against the resolution will be recognized.(20)

Opponents of Rules Committee Resolution

§ 23.6 In response to a parliamentary inquiry the Speaker advised that if the previous question on a privileged resolution reported by the Committee on Rules were voted down, the Chair would recognize the Member who appeared to be leading the opposition to the resolution.

On Oct. 19, 1966,(1) the House was considering House Resolution 1013, establishing a Select Committee on Standards and Conduct. The following occurred:

Mr. [James G.] Fulton of Pennsylvania: Mr. Speaker, if the previous question is refused and the resolution is then open for amendment, under what parliamentary procedure will the debate continue? Or what would be the time limit?

The Speaker:(2) The Chair would recognize whoever appeared to be the leading Member in opposition to the resolution.(3)

Motion to Instruct Conferees

§ 23.7 If the previous question is voted down on a motion to instruct the managers on the part of the House, the motion is open to amendment, and the Speaker would recognize a Member opposed to ordering the previous question to control the time and offer an amendment.

On May 29, 1968,(4) the House was considering H.R. 15414, the Revenue and Expenditure Act of 1968. Mr. James A. Burke, of Massachusetts, offered a motion to in-

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20. See also 115 Cong. Rec. 27-29, 91st Cong. 1st Sess., Jan 3, 1969.

1. 112 Cong. Rec. 27725, 89th Cong. 2d Sess.

2. John W. McCormack (Mass.).

3. See also 116 Cong. Rec. 19837, 19840, 19843, 19844, 91th Cong. 2d Sess., June 16, 1970; and 84 Cong. Rec. 2663, 2670, 2671, 2673, 76th Cong. 1st Sess., Mar. 13, 1939.

4. 114 Cong. Rec. 15499, 15500, 15511, 15512, 90th Cong. 2d Sess.

struct the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill. The previous question was then ordered on the motion. Mr. Joe D. Waggonner, Jr., of Louisiana, rose with a parliamentary inquiry.

> MR. WAGGONNER: Mr. Speaker, should the previous question be voted down would the motion be open to a preferential motion to amend and would of necessity the time be controlled by those in opposition to the previous question?
>
> THE SPEAKER:(5) . . . The answer to the parliamentary inquiry of the gentleman from Louisiana would be in the affirmative.

Recognition of Member of Majority

§ 23.8 A majority member who had led the opposition to the previous question on the resolution adopting the rules was recognized, upon rejection of the previous question, to offer an amendment, where no minority member who had been opposed to the previous question sought recognition.

On Jan. 22, 1971,(6) the House was considering House Resolution 5, adopting the rules of the House for the 92d Congress. Mr. William M. Colmer, of Mississippi, moved the previous question on the resolution and the following occurred:

> MR. COLMER: . . . Mr. Speaker, I move the previous question on the resolution, as I am bound to do by the caucus.
>
> THE SPEAKER:(7) The question is on ordering the previous question.
>
> MR. [B. F.] SISK [of California]: Mr. Speaker, on that I demand the yeas and nays.
>
> The yeas and nays were ordered.
>
> The question was taken; and there were—yeas 134, nays 254, not voting 46. . . .
>
> THE SPEAKER: The Chair recognizes the gentleman from California (Mr. Sisk).
>
> MR. SISK: Mr. Speaker, I offer an amendment.
>
> The Clerk read as follows:
>
>> Amendment offered by Mr. Sisk: On page 2, strike out lines 1 through 25, and on page 3, strike out lines 1 through 18.
>
> THE SPEAKER: The gentleman from California is recognized for 1 hour.

§ 24. Effect of Adjournment

Adjournment After Motion for Previous Question

§ 24.1 Where a quorum failed on ordering the previous question on a bill under consideration on a Calendar Wednesday, and the House adjourned, the vote went

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5. John W. McCormack (Mass.).

6. 117 CONG. REC. 140, 142–44, 92d Cong. 1st Sess.

7. Carl Albert (Okla.).

over until the next Calendar Wednesday.

On Mar. 7, 1935,(8) the following occurred on the floor of the House:

Mr. [Frederick R.] Lehlbach [of New Jersey]: Mr. Speaker, a parliamentary inquiry.

The Speaker:(9) The gentleman will state it.

Mr. Lehlbach: Yesterday the previous question was moved on a bill then pending, and upon a division the vote was 36 to 16, whereupon a point of no quorum was made. Under the rules of the House there would follow an automatic roll call on the question of ordering the previous question, but before proceedings could be had the gentleman from New York [Mr. O'Connor] moved that the House adjourn, and the House accordingly adjourned. My inquiry is, Is the motion for the previous question still pending?

The Speaker: The motion is pending and the vote will again be taken the next time the committee is called under the Calendar Wednesday rule; that will be the first business in order when the Judiciary Committee is again called on Calendar Wednesday.

§ 24.2 If the previous question is ordered on a bill and amendments thereto, and the House adjourns, the bill becomes the unfinished business the following day and separate votes may be demanded on the amendments at that time.

On May 17, 1939,(10) the House was considering H.R. 6264, relating to public works on rivers and harbors. The following then occurred:

Mr. [Joseph J.] Mansfield [of Texas]: Mr. Speaker, I move the previous question on the bill and all amendments to final passage.

The previous question was ordered.

Mr. [Sam] Rayburn [of Texas]: Mr. Speaker, a parliamentary inquiry.

The Speaker:(11) The gentleman will state it.

Mr. Rayburn: Were the House to adjourn at this time, would the present bill be pending business tomorrow?

The Speaker: Answering the parliamentary inquiry of the gentleman from Texas, the Chair will state that the previous question having been ordered on the bill and all amendments to final passage, it would be the unfinished and privileged order of business tomorrow morning.

Mr. Rankin: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Rankin: Can these individual amendments then be voted on?

The Speaker: A separate vote can be demanded on them when that question is reached.(12)

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8. 79 Cong. Rec. 3121, 74th Cong. 1st Sess.
9. Joseph W. Byrns (Tenn.).
10. 84 Cong. Rec. 5682, 76th Cong. 1st Sess.
11. William B. Bankhead (Ala.).
12. See also 72 Cong. Rec. 8964, 71st Cong. 2d Sess., May 14, 1930; and 72 Cong. Rec. 7774, 71st Cong. 2d Sess., Apr. 25, 1930.

E. MOTIONS TO REFER OR RECOMMIT

§ 25. In General

There are in the rules of the House four motions to refer: the ordinary motion provided for in the first sentence of clause 4, Rule XVI(13) when a question is "under debate;" the motion to recommit with or without instructions after the previous question has been ordered on a bill or joint resolution to final passage, provided in the second sentence of clause 4, Rule XVI; the motion to commit, with or without instructions, pending the motion for or after the ordering of the previous question as provided in clause 1, Rule XVII;(14) and the motion to refer, with or without instructions, pending a vote in the House on a motion to strike out the enacting clause as provided in clause 7, Rule XXIII.(15) The terms "refer," "commit," and "recommit" are sometimes used interchangeably,(16) but when used in the precise manner contemplated in each rule, reflect certain differences based upon whether the question to which applied is "under debate," whether a bill or joint resolution, a concurrent or simple resolution, or conference report, is under consideration, whether the motion itself is debatable, whether the motion may include instructions to report back "forthwith" with an amendment, and whether a minority member or a Member opposed to the question to which the motion is applied is entitled to a priority of recognition.

The motions may not be used in direct form in Committee of the Whole.(17) It is in order for the Committee of the Whole to rise and report back to the House with the recommendation that the measure under consideration be recommitted, but such a motion is entertained only at the completion of reading the bill for amendment(18) and then only in situations where the Committee of the Whole is proceeding under the general rules of the House.(19)

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13. *House Rules and Manual* § 782 (1981).
14. *House Rules and Manual* § 804. See 5 Hinds' Precedents § 5569.
15. *House Rules and Manual* § 875 (1981).
16. 5 Hinds' Precedents § 5521; 8 Cannon's Precedents § 2736.
17. 4 Hinds' Precedents § 4721; 8 Cannon's Precedents § 2326.
18. 4 Hinds' Precedents §§ 4761, 4762.
19. 8 Cannon's Precedents § 2329.

Where, on the other hand, a bill is being considered under a special rule providing that after consideration for amendment the Committee automatically rises "and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion" at the conclusion of the amendment process under the five-minute rule, the motion is not in order, since precluded by the language of the special rule.(20) It cannot be combined in Committee of the Whole as part of a motion to rise with the recommendation that the enacting clause be stricken.(21)

The simple motion to refer under the first sentence of clause 4, Rule XVI is debatable within narrow limits,(1) but the merits of the proposition which it is proposed to refer may not be brought into the debate.(2) It may include instructions or be amended to include instructions(3) (so long as those instructions are not to report back forthwith with an amendment if offered at the outset of consideration), may intervene at the outset(4) but not after debate has begun in the House,(5) and may be offered by any Member (who need not qualify as being in opposition to the pending question), when any bill or resolution is "under debate," i.e., when the previous question has not been moved or ordered. The motion is debatable under the hour rule whether or not accompanied by instructions(6) unless the previous question has been ordered thereon, and once disposed of, cannot be offered again at the same stage of the question on the same day.(7)

The motion to recommit a bill or joint resolution after the previous question shall have been ordered pending the question of final passage is provided in the second sentence of clause 4, Rule XVI, and recognition to offer that motion to recommit, whether a

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20. See § 26.5, infra, where special rule precluded such a motion, and see also discussions in Ch. 19 § 23.12, supra (Committee of the Whole) under "Motions to Rise."

21. See Ch. 19 §§ 10.10, 10.12, supra.

1. 5 Hinds' Precedents § 5054.

2. 5 Hinds' Precedents §§ 5564–68; 6 Cannon's Precedents §§ 65, 549; 8 Cannon's Precedents § 2740.

3. 5 Hinds' Precedents § 5521.

4. 6 Cannon's Precedents § 65.

5. 6 Cannon's Precedents § 468; 8 Cannon's Precedents § 2742.

6. 5 Hinds' Precedents § 5561.

7. Rule XVI clause 4, *House Rules and Manual* § 782 (1981).

"straight" motion or with instructions, is the prerogative of a Member who is opposed to the bill or joint resolution,(8) the Speaker looking first to minority members of the committee reporting the bill, in order of their rank on the committee,(9) then to other Members on the minority side,(10) and then to a majority member who is opposed if no minority member qualifies.(11) The threshold question asked in qualifying a Member to offer the motion to recommit is, "Is the gentlemen (gentlewoman) opposed to the measure?" Beyond this, the Member entitled to offer the motion is determined by the Speaker's power of recognition, but rulings indicate that the Speaker will follow the abovementioned priorities in recognition. Basically, the motion is the prerogative of the minority, and recognition would be offered to a less senior minority member of the reporting committee in preference to a more senior majority member of that committee. A majority member of the reporting committee would have lower priority than a minority member not on the reporting committee.

The Chair no longer gives priority to Members opposed to the measure in its entirety over those opposed to the measure "in its present form."(12) If the motion is ruled out on a point of order, its proponent or another qualifying Member is entitled to offer a proper motion to recommit.(13) The Committee on Rules is precluded under clause 4(b), Rule XI(14) from reporting a special rule which would prevent the motion to recommit from being made as provided in clause 4, Rule XVI (in the second sentence), although it may report a special rule limiting to a straight motion, or precluding certain instructions in, the motion to recommit which may be offered on a bill or joint

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8. 100 Cong. Rec. 3967, 83d Cong. 2d Sess., Mar. 29, 1954 [Speaker Joseph W. Martin (Mass.)].
9. 78 Cong. Rec. 1396, 73d Cong. 2d Sess., Jan. 6, 1932 [Speaker John N. Garner (Tex.)]; 81 Cong. Rec. 10638, 75th Cong. 1st Sess., July 2, 1935 [Speaker Joseph W. Byrns (Tenn.)].
10. 96 Cong. Rec. 12608, 81st Cong. 2d Sess., Aug. 16, 1950 [Speaker Sam Rayburn (Tex.)].
11. 78 Cong. Rec. 7327, 73d Cong. 2d Sess., Apr. 1, 1932 [Speaker John N. Garner (Tex.)].
12. See §§ 27.8, 27.9, infra. These precedents supersede earlier precedents in which priority was accorded to Members totally opposed.
13. 8 Cannon's Precedents § 2713.
14. *House Rules and Manual* § 729a (1981).

resolution pending final passage.(15)

The motion to commit under clause 1, Rule XVII applies to resolutions, and to concurrent resolutions as well as to bills and joint resolutions,(16) to conference reports in cases where the House is acting first on the report and to motions, such as a motion to amend the Journal.(17) It does not apply to a report from the Committee on Rules providing a special order of business,(18) or to a pending amendment to a proposition in the House.(19) Although a motion to commit under this clause, with instructions to report back forthwith with an amendment has been allowed after the previous question has been ordered on a motion to dispose of Senate amendments before the stage of disagreement,(20) a motion to commit under this clause does not apply to a motion disposing of Senate amendments after the stage of disagreement where utilized to displace a pending preferential motion.(1) The motion to commit under clause 1, Rule XVII may be made pending the demand for the previous question on passage of a bill or adoption of a resolution,(2) but when the demand covers all stages of the bill to the final passage the motion to commit is made only after the third reading and becomes, in effect, the motion as provided in the second sentence of clause 4, Rule XVI, and is not in order pending the demand or before the engrossment or third reading,(3) or where the House has refused to order the third reading.(4) When separate motions for the previous question are made, respectively, on the third reading and on the passage of a bill, the motion to commit should only be made after the previous question is ordered on passage.(5) When the previous question has been ordered on a simple resolution and a pending amendment thereto, the motion to commit should be offered after the vote on the amendment.(6) A motion to

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15. H. Jour. 47, 73d Cong. 2d Sess., Jan. 11, 1934 [Speaker Henry T. Rainey (Ill.)].
16. 5 Hinds' Precedents §§ 5572, 5573; 8 Cannon's Precedents § 2742.
17. 5 Hinds' Precedents § 5574.
18. *Id.* at §§ 5593-5601; 8 Cannon's Precedents §§ 2270, 2750.
19. 5 Hinds' Precedents § 5573.
20. *Id.* at § 5575; 8 Cannon's Precedents §§ 2744, 2745.

1. 122 Cong. Rec. 30887, 94th Cong. 2d Sess., Sept. 16, 1976 [Speaker Carl Albert (Okla.)].
2. 5 Hinds' Precedents § 5576.
3. *Id.* at §§ 5578-81.
4. *Id.* at §§ 5602, 5603.
5. *Id.* at § 5577.
6. *Id.* at §§ 5585-88.

commit has been entertained after ordering of the previous question even before the adoption of rules at the beginning of a Congress.(7) The same principles of recognition apply to the motion to commit under clause 1, Rule XVII as apply to the motion to recommit under the second sentence of clause 4, Rule XVI, but a motion under clause 1, Rule XVII to commit a resolution called up in the House as a privileged matter and not previously referred to committee does not depend on party affiliation or on opposition to the resolution.(8) The motion to commit under this clause is not debatable,(9) but may be amended, as by adding instructions, unless such amendment is precluded by moving the previous question on the motion to commit.(10)

The motion to refer is also provided in clause 7, Rule XXIII, which permits the offering of a motion to refer a measure to any committee, with or without instructions, pending concurrence in the House in a recommendation from the Committee of the Whole that the enacting clause of a measure be stricken. Since the recommendation that the enacting clause be stricken may interrupt and supersede the offering of amendments in Committee of the Whole, and since the motion to recommit pending the vote in the House on striking the enacting clause may be an alternative for those who oppose killing the bill, persuasive dicta in the precedents indicate that "the motion to recommit is made not by persons who favored the striking out of the enacting clause but by their opponents. The presumption would be that, having succeeded in the Committee, they would also succeed in the House and would wish to come to an immediate decision; and apparently the provision for a motion to refer was inserted so that the friends of the original bill might avert its permanent death by referring it again to committee, where it could again be considered in the light of the action of the House."(11) Based upon this reasoning, it would not appear that the motion to recommit in this situation would be the prerogative of the minority or that the Member seeking recognition to offer it must qualify as being opposed to the bill. As indicated in

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7. 8 Cannon's Precedents § 2755.
8. 122 Cong. Rec. 3920, 94th Cong. 2d Sess., Feb. 19, 1976 [Speaker Carl Albert (Okla.)].
9. 5 Hinds' Precedents § 5582.
10. *Id.* at §§ 5582-84; 8 Cannon's Precedents § 2695.
11. 8 Cannon's Precedents § 2629.

Chapter 19, § 11.14, supra, the motion has, however, been offered in the modern practice by the same Member who had successfully offered the motion in Committee of the Whole to rise with the recommendation that the enacting clause be stricken.

The motion to refer, commit, or recommit may in certain situations include instructions. The "straight" motion (i.e., without instructions) sends a measure to a specified committee and leaves the disposition thereof, together with any amendments adopted by the House which may also have been referred, to the discretion of the committee. The straight motion to commit or recommit is not debatable where made pending the previous question or after the previous question has been ordered.(12) The motion to refer, commit, or recommit may specify that the reference shall be to a select as well as a standing committee(13) without regard for rules of jurisdiction,(14) and may provide for reference to another committee than that reporting the bill,(15) or to the Committee of the Whole,(16) but not to a subcommittee.(17) The straight motion and the motion with instructions are of equal privilege and have no relative precedence.(18)

The motion to commit or recommit with instructions, if made under the second sentence of clause 4, Rule XVI, is debatable for 10 minutes, five minutes in favor of the motion and five opposed, and only on a bill or joint resolution pending final passage.

Instructions accompanying a motion to recommit may direct the committee(s) to which the measure is recommitted to take certain actions. Often the committee is instructed to report the measure back to the House immediately ("forthwith") with an amendment contained in the instructions. However, unless provision is included in a special rule adopted by the House, it is not in order to do indirectly by a motion to recommit with instructions that which may not be done directly by way of amendment,(19) such as to propose an amendment which is not germane, to propose to strike out or amend merely that which has already been inserted by way of amendment,(1) to propose an amendment in violation of clauses 2, 5, or 6 of Rule XXI,(2) or to change the rules of the House by granting a committee leave to report at any time or requiring a report on a date certain.(3) Where a special rule providing for the consideration of a bill prohibited the offering of amendments to a certain title of the bill during its consideration in both the House and Committee of the Whole, it was held not in order to offer a motion to recommit with instructions to incorporate an amendment in the restricted title.(4) The motion may not be accompanied by a preamble, argument, or explanation,(5) and it may not be laid on the table where the previous question has been ordered or is pending on the measure to which applied.(6) Only one proper motion to commit or recommit is in order, where the previous question has been ordered to final passage or adoption.(7)

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(12) 5 Hinds' Precedents § 5582.

(13) 4 Hinds' Precedents § 4401.

(14) *Id.* at § 4375; 5 Hinds' Precedents § 5527.

(15) 8 Cannon's Precedents §§ 2696, 2736.

(16) 5 Hinds' Precedents §§ 5552, 5553.

(17) 8 Cannon's Precedents § 2739.

(18) *Id.* at §§ 2714, 2758, 2762.

(19) 5 Hinds' Precedents §§ 5529–41; 8 Cannon's Precedents § 2705.

Upon approval of the motion to recommit with instructions to report back forthwith with an amendment, this process is automatic and the committee is not required to convene and consider the measure. The chairman or other designated committee member rises and announces that pursuant to the instructions of the House, he is reporting the measure back to the House with the amendment which was included in the instructions.(8) At this point a vote is taken on the amendment,(9) and on at least one occasion the House has defeated the amendment when so reported.(10) Thus the offering of a motion to recommit with instructions may give the minority an opportunity to have its version of the pending measure placed before the House for a vote, subject to the restrictions on prior House adoption of amendments and depending upon any special authority conferred in

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1. 8 Cannon's Precedents §§ 2712, 2715, 2720, 2721.
2. *House Rules and Manual* §§ 834, 846, 847 (1981); see 5 Hinds' Precedents §§ 5533–40.
3. 5 Hinds' Precedents §§ 5543, 5549.
4. H. Jour. 47, 73d Cong. 2d Sess., Jan. 11, 1934 [Speaker Henry T. Rainey (Ill.)].
5. 5 Hinds' Precedents § 5589; 8 Cannon's Precedents § 2749.
6. 5 Hinds' Precedents §§ 5412–14.
7. *Id.* at §§ 5577, 5582; 8 Cannon's Precedents § 2763.
8. See §§ 28.9, 32.23, 32.24, infra.
9. See §§ 32.23, 32.24, infra.
10. See § 32.28, infra.

a special rule reported from the Committee on Rules to offer a motion to recommit "with or without instructions" notwithstanding prior House adoption of an inconsistent amendment. However, the motion to recommit with instructions may be amended if the previous question is not ordered thereon, and a substitute which strikes out all of the proposed instructions and inserts others in their place is in order if germane to the pending measure, and has been held not to violate the right of the minority to move to recommit.(11) When a bill is recommitted it is before the committee as a new subject,(1) but the committee must confine itself to the instructions, if there be any.(2)

Motion as Subject to Amendment

§ 25.1 A motion to recommit is subject to amendment unless the previous question is ordered thereon; and the previous question takes precedence of the motion to amend.

On Aug. 11, 1969,(3) the House was considering H.R. 12982, the District of Columbia Revenue Act for 1969. After the bill was engrossed and read a third time, Mr. Alvin E. O'Konski, of Wisconsin, offered a motion to recommit. The following then occurred:

> MR. [BROCK] ADAMS [of Washington]: Mr. Speaker, I have an amendment to the motion to recommit.
>
> MR. [JOHN L.] MCMILLAN [of South Carolina]: Mr. Speaker, I move the previous question on the motion to recommit.
>
> THE SPEAKER:(4) The question is on ordering the previous question on the motion to recommit.
>
> The question was taken; and on a division (demanded by Mr. Adams) there were—ayes 104, noes 65.
>
> So the previous question was ordered.(5)
>
> THE SPEAKER: The question is on the motion to recommit.
>
> The motion to recommit was rejected.

§ 25.2 In response to a parliamentary inquiry, the Speaker stated that a motion to recommit a bill is not amendable unless the previous question is voted down on the motion.

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11. 8 Cannon's Precedents § 2759.
1. 4 Hinds' Precedents § 4557; 5 Hinds' Precedents § 5558.
2. 4 Hinds' Precedents § 4404; 5 Hinds' Precedents § 5526.
3. 115 CONG. REC. 23143, 91st Cong. 1st Sess.
4. John W. McCormack (Mass.).
5. See also 84 CONG. REC. 3671, 76th Cong. 1st Sess., Mar. 31, 1939.

On May 6, 1970,(6) the House was considering H.R. 17123, authorizing military procurement for fiscal 1971. After Mr. Alvin E. O'Konski, of Wisconsin, offered a motion to recommit the bill, Mr. Silvio O. Conte, of Massachusetts, rose with a parliamentary inquiry.

Mr. Conte: Mr. Speaker, a parliamentary inquiry.

The Speaker:(7) The gentleman will state it.

Mr. Conte: Mr. Speaker, is a motion to recommit amendable?

The Speaker: Not unless the previous question is voted down.(8)

§ 25.3 Parliamentarian's Note: A point of order against an amendment to a motion to recommit is in order immediately following the reading of the amendment.

Reference to Particular Committees

§ 25.4 A motion to recommit may provide for reference of the bill under consideration to any committee of the House.

On Aug. 7, 1950,(9) the House was considering H.R. 8396, authorizing federal assistance to state and local governments in times of major disasters. The following then occurred.

Mr. [Kenneth B.] Keating [of New York]: Mr. Speaker, I offer a motion to recommit.

The Speaker:(10) Is the gentleman opposed to the bill?

Mr. Keating: I am, Mr. Speaker.

The Speaker: The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. Keating moves to recommit the bill to the Committee on Public Lands with instructions to report the same back forthwith with the following amendment: Page 2, line 6, after "President" insert "and the Congress of the United States".

Mr. [William M.] Whittington [of Mississippi]: Mr. Speaker, I make the point of order against the motion to recommit that it is a violation of the rules of the House for the bill to be recommitted to the Committee on Public Lands. The Committee on Public Works has jurisdiction of this bill.

The Speaker: The gentleman may recommit it to any committee, as far as that is concerned, but the Committee on Public Lands does not have jurisdiction over legislation of this character.

Mr. Keating: Mr. Speaker, I ask unanimous consent to change the word "Lands" to "Works."

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6. 116 Cong. Rec. 14490, 91st Cong. 2d Sess.
7. John W. McCormack (Mass.).
8. See also 114 Cong. Rec. 18940, 18941, 90th Cong. 2d Sess. June 26, 1968; and 101 Cong. Rec. 9379, 84th Cong. 1st Sess., June 28, 1955.
9. 96 Cong. Rec. 11914, 81st Cong. 2d Sess.
10. Sam Rayburn (Tex.).

THE SPEAKER: Is there objection to the request of the gentleman from New York?

There was no objection.

THE SPEAKER: The question is on the motion to recommit.

§ 25.5 The motion to recommit a measure may refer it to any committee of the House, and such motion need not necessarily refer the measure to the committee that originally reported it.

On Dec. 21, 1932,(11) the Committee of the Whole having considered H.R. 13742, to provide revenue by the taxation of a certain nonintoxicating liquor, reported the bill back to the House. After the engrossed copy was read the following occurred:

MR. [FRANK] CROWTHER [of New York]: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER:(12) Is the gentleman opposed to the bill?

MR. CROWTHER: I am.

THE SPEAKER: The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. Crowther moves to recommit the bill (H.R. 13742) to the Committee on the Judiciary.

MR. CROWTHER: Mr. Speaker, on that motion I move the previous question.

MR. [JOHN J.] COCHRAN of Missouri: Mr. Speaker, I make the point of order against the motion to recommit. This bill came from the Committee on Ways and Means, and the motion to recommit is to the Judiciary Committee. The precedents——

THE SPEAKER: This is not a question of precedent. You can move to recommit it to any committee of the House.

Recommittal to Committee Reporting Bill

§ 25.6 If the Committee of the Whole reports a bill back to the House with the recommendation that the enacting clause be stricken, a motion to recommit the bill to the committee reporting it is in order in the House.

On July 18, 1946,(13) the Committee of the Whole having considered the bill S. 1717, relating to the development and control of atomic energy, a motion was made to report that bill back to the House with the recommendation that the enacting clause be stricken out. The following then occurred:

MR. [GRAHAM A.] BARDEN [of North Carolina]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN:(14) The gentleman will state it.

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11. 76 CONG. REC. 866, 72d Cong. 2d Sess.
12. John N. Garner (Tex.).
13. 92 CONG. REC. 9355, 9356, 79th Cong. 2d Sess.
14. John J. Delaney (N.Y.).

Mr. Barden: As I understand the parliamentary situation, if this motion prevails, when we go back into the House it would be proper to introduce a motion to recommit the bill back to the committee for further consideration; is that not correct?

The Chairman: That is correct. . . . When we go back into the House, the House will vote whether or not they want to strike out the enacting clause.

Mr. Barden: Mr. Chairman, instead of voting whether or not we want to strike out the enacting clause, will it not be a vote to recommit to the committee?

The Chairman: After we go back into the House, a motion to recommit would be in order.

Permitting More Than One Motion

§ 25.7 Where a motion to recommit with an instruction was ruled out on a point of order, a second motion with another instruction was admitted.

On Apr. 28, 1932,[15] the House was considering H.R. 11452, the Navy Department appropriations bill. The following then occurred:

Mr. [Ross A.] Collins [of Mississippi]: Mr. Speaker, I have a motion to recommit.

The Speaker:[16] Is the gentleman opposed to the bill?

Mr. Collins: I am.

The Speaker: The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. Collins moves to recommit the bill to the Committee on Appropriations with instructions to report the same back forthwith with the following amendment: On page 25, line 19, before the semicolon, insert "*Provided further,* That the total number of enlisted men in the ratings of bandmaster, first musician, musician first class and musician second class on April 18, 1932, shall be reduced by 355 by discontinuing new enlistments and reenlistments not continuous in such ratings and/or placing in such ratings men otherwise rated."

Mr. [Carl R.] Chindblom [of Illinois]: Mr. Speaker, a point of order. My understanding is that action was taken on this question by an amendment passed in the House. That was stricken out by an amendment.

Mr. [William H.] Stafford [of Wisconsin]: Mr. Speaker, that is not a good point of order. The Speaker can not take cognizance of any action that has been taken in Committee of the Whole on the state of the Union except as reported to the House. The chairman of the committee reports only the facts as to amendments, and there was no report that any part of the bill had been stricken out.

The Speaker: The gentleman from Illinois makes the point of order that the motion to recommit attempts to reinsert language that was stricken out of the bill in the House by agreeing to an amendment reported from the Committee of the Whole. The rulings are uniform that you can not undo in a motion to recommit that which the House has just disposed of, so the point of order is well taken.

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[15] 75 Cong. Rec. 9147, 72d Cong. 1st Sess.

[16] John N. Garner (Tex.).

MR. [JOHN C.] SCHAFER [of Wisconsin]: Mr. Speaker, I have a motion to recommit. I move that the bill be recommitted to the Committee on Appropriations with instructions to report it back after further consideration with 10 per cent reduction in the total amount of the appropriation.

THE SPEAKER: The Clerk will report the motion to recommit.

Effect of Special Order

§ 25.8 Where a special rule by its terms ordered the previous question at a certain time on a bill to final passage, it was held that a motion to recommit was in order notwithstanding the provisions of the special rule.

On Mar. 11, 1933,(17) Mr. Joseph W. Byrns, of Tennessee, rose with the following resolution:

> MR. BYRNS: Mr. Speaker, I offer the following resolution, move its adoption, and upon that motion I move the previous question.
>
> The Clerk read as follows:
>
> Resolution offered by Mr. Byrns:
>
> "HOUSE RESOLUTION 32
>
> "*Resolved,* That immediately upon the adoption of this resolution the House shall proceed to the consideration of H.R. 2820, a bill to maintain the credit of the United States Government, and all points of order against said bill shall be considered as waived; that, after general debate, which shall be confined to the bill and shall continue not to exceed 2 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Economy, the previous question shall be considered as ordered on the bill to final passage."
>
> MR. [GORDON] BROWNING [of Tennessee]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER:(18) The gentleman will state it.
>
> MR. BROWNING: If this resolution is adopted, there will not be any privilege of amendment given to the House, under any consideration?
>
> THE SPEAKER: There will not be.
>
> MR. BROWNING: Would a motion to recommit be in order following the third reading of the bill?
>
> THE SPEAKER: It would; yes.

§ 25.9 The Committee on Rules may not report any order or rule which shall operate to prevent the offering of a motion to recommit as provided in Rule XVI clause 4, but such restriction does not apply to a special rule which may prevent a motion to recommit with instructions to incorporate an amendment in a title to which such special rule precludes the offering of amendments.

On Jan. 11, 1934,(19) the following occurred on the floor of the House:

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17. 77 CONG. REC. 198, 73d Cong. 1st Sess.

18. Henry T. Rainey (Ill).

19. 78 CONG. REC. 479, 480, 482, 483, 73d Cong. 2d Sess.

Mr. [William B.] Bankhead [of Alabama]: Mr. Speaker, at the request of the Chairman of the Committee on Rules, the gentleman from North Carolina, I call up for consideration House Resolution 217 and ask that the same be reported.

The Clerk read as follows:

House Resolution 217

> *Resolved,* That during the consideration of H.R. 6663, a bill making appropriations for the Executive Office and sundry independent bureaus, boards, commissions, and offices, for the fiscal year ending June 30, 1935, and for other purposes, all points of order against title II or any provisions contained therein are hereby waived; and no amendments or motions to strike out shall be in order to such title except amendments or motions to strike out offered by direction of the Committee on Appropriations, and said amendments or motions shall be in order, any rule of the House to the contrary notwithstanding. Amendments shall not be in order to any other section of the bill H.R. 6663 or to any section of any general appropriation bill of the Seventy-third Congress which would be in conflict with the provisions of title II of the bill H.R. 6663 as reported to the House, except amendments offered by direction of the Committee on Appropriations, and said amendments shall be in order, any rule of the House to the contrary notwithstanding. . . .

Mr. [Bertrand H.] Snell [of New York]: Mr. Speaker, I make the point of order against the rule that it is not a privileged report from the Committee on Rules, on the ground that it violates the general rules of the House by denying the right to the minority to make the usual and regular motion to recommit.

The Speaker:(20) The Chair will hear the gentleman from New York.

Mr. Snell: Mr. Speaker, as far as I am familiar with the rights of the Committee on Rules to make privileged reports, they are entitled to report a rule at any time, with the two exceptions, and these exceptions are specifically set forth in section 725, page 327, of the Manual:

> The Committee on Rules shall not report any rule or order which shall provide that business under paragraph 7 of rule XXIV—

Which is the Calendar Wednesday rule—

> shall be set aside by a vote of less than two-thirds of the Members present—

The next exception covers the point I am making in my point of order—

> nor shall it report any rule or order which shall operate to prevent the motion to recommit being made as provided in paragraph 4 of rule XVI.

Paragraph 4 of rule XVI states the following:

> After the previous question shall have been ordered on the passage of a bill or joint resolution, one motion to recommit shall be in order.

Also rule XVII, section 1, provides—

> It shall be in order, pending the motion for or after the previous question shall have been ordered on its passage, for the Speaker to entertain a motion to commit with or without instructions to a standing or select committee.

It has been the precedent of the House for a great many years that under no circumstances will the minor-

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20. Henry T. Rainey (Ill.).

ity be prohibited from making a motion to recommit, and I have yet never heard anyone express a different opinion on policy or philosophy of the rules of the House. In this way the minority is allowed to place its position before the Congress, and, if enough Members approve of it, they are entitled to a roll-call vote. I have never heard anyone take a different position on the floor of the House. But it is evident, from what the gentleman from Alabama says, that they intend, by the particular wording of this rule, to take advantage of the situation and to deny the minority the right of making such a motion. For this reason I maintain the rule is subject to the point of order. . . .

The Speaker: The Chair is prepared to rule. The gentleman from New York makes the point of order that the Committee on Rules has reported out a resolution which violates the provisions of clause 45, rule XI, which are as follows:

> The Committee on Rules shall not report any rule or order . . . which shall operate to prevent the motion to recommit being made as provided in clause 4, rule XVI.

The pertinent language of clause 4, rule XVI is as follows:

> After the previous question shall have been ordered on the passage of a bill or joint resolution one motion to recommit shall be in order and the Speaker shall give preference in recognition for such purpose to a Member who is opposed to the bill or resolution.

The special rule, House Resolution 217, now before the House, does not mention the motion to recommit. Therefore, any motion to recommit would be made under the general rules of the House. The contention of the gentleman from New York that this special rule deprives the minority of the right to make a motion to recommit is, therefore, obviously not well taken. The right to offer a motion to recommit is provided for in the general rules of the House, and since no mention is made in the special rule now before the House it naturally follows that the motion would be in order.

A question may present itself later when a motion to recommit with instructions is made on the bill H.R. 6663 that the special rule which is now before the House may prevent a motion to recommit with instructions which would be in conflict with the provisions of the special rule. It has been held on numerous occasions that a motion to recommit with instructions may not propose as instructions anything that might not be proposed directly as an amendment. Of course, inasmuch as the special rule prohibits amendments to title II of the bill H.R. 6663 it would not be in order after the adoption of the special rule to move to recommit the bill with instructions to incorporate an amendment in title II of the bill. The Chair therefore, holds that the motion to recommit, as provided in clause 4, rule XVI, has been reserved to the minority and that insofar as such rule is concerned the special rule before the House does not deprive the minority of the right to make a simple motion to recommit. The Chair thinks, however, that a motion to recommit with instructions to incorporate a provision which would be in violation of the special rule, House Resolution 217, would not be in order. For the reasons stated, the Chair overrules the point of order.

Explaining the Motion

§ 25.10 In response to a parliamentary inquiry, the Chair indicated that following the reading and amendment of the final section of a bill, he would still recognize a Member to move to strike out the last word in order to explain a motion to recommit to be subsequently offered in the House but not then debatable.

On July 31, 1969,(1) the Committee of the Whole was considering H.R. 13111, Labor and HEW appropriations for fiscal 1970. The following occurred:

MR. [CHARLES S.] JOELSON [of New Jersey]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN:(2) The gentleman will state it.

MR. JOELSON: Section 409 is the last section of the bill. I understand there will be an explanation of a proposed motion to recommit. Will there be time to explain the motion and time for me to comment on it?

THE CHAIRMAN: There will be time. Section 409 has not yet been read. Section 409 still must be read. The Chair will certainly recognize any Member after the section has been read, providing it is not for the purpose of offering an amendment to section 408 or section 409. In fact, the Chair will recognize the chairman for a perfecting amendment after that.

MR. [DANIEL J.] FLOOD [of Pennsylvania]: Mr. Chairman, I have no intention of attempting to foreclose a motion, if there is one—and I do not know that there will be—to recommit. I have no intention of foreclosing explanations, if there are any, by any opponent of the motion to recommit.

THE CHAIRMAN: The Chair is pleased to have that statement, because the Chair had promised the gentleman who will offer the recommittal motion to recognize him for 5 minutes when he moves to strike out the last word, after the Committee concludes action on sections 408 and 409, for an explanation of his motion to recommit.

Recommittal of Resolution From Rules Committee

§ 25.11 A motion to recommit a privileged resolution reported from the Committee on Rules is not in order.

On June 8, 1970,(3) the House was considering House Resolution 976, establishing a select committee to investigate U.S. military involvement in Southeast Asia. After the previous question was moved, Mr. Jonathan Bingham, of New York, rose with a parliamentary inquiry:

MR. BINGHAM: Mr. Speaker, a parliamentary inquiry.

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1. 115 CONG. REC. 21676, 21677, 91st Cong. 1st Sess.
2. Chet Holifield (Calif.).
3. 116 CONG. REC. 18656–58, 18668–71, 91st Cong. 2d Sess.

THE SPEAKER PRO TEMPORE:(4) The gentleman will state his parliamentary inquiry.

MR. BINGHAM: Will the Chair entertain a motion to recommit with an amendment to the resolution?

THE SPEAKER PRO TEMPORE: The Chair will state to the gentleman from New York that a motion to recommit is not in order on a resolution from the Committee on Rules.(5)

Divisibility of Motion

§ 25.12 A motion to recommit with instructions is not divisible.

On June 27, 1947,(6) the House was considering the conference report on H.R. 3737, a bill to provide revenue for the District of Columbia. Mr. Joseph P. O'Hara, of Minnesota, offered a motion to recommit the conference report to the committee of conference with certain instructions to the House conferees. Mr. Everett M. Dirksen, of Illinois, then rose with a parliamentary inquiry:

MR. DIRKSEN: Would not the motion be divisible?

THE SPEAKER:(7) A motion to recommit is not divisible.

§ 26. Purpose and Effect

Expression of Minority Opinion

§ 26.1 One purpose of the motion to recommit is to give those Members opposed to the bill an opportunity to call for a final expression of opinion by the House on the bill.

On May 15, 1939,(8) the following occurred on the floor of the House:

THE SPEAKER:(9) The unfinished business is the reading of the engrossed copy of the bill (H.R. 6260) making appropriations for the fiscal year ending June 30, 1940, for civil functions administered by the War Department, and for other purposes.

The bill was read the third time.

MR. [D. LANE] POWERS [of New Jersey]: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER: Is the gentleman opposed to the bill?

MR. POWERS: I am, Mr. Speaker.

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4. Carl Albert (Okla.).
5. See also 101 CONG. REC. 1076-79, 84th Cong. 1st Sess., Feb. 2, 1955; 97 CONG. REC. 11394, 11397, 11398, 82d Cong. 1st Sess., Sept. 14, 1951; 89 CONG. REC. 233, 78th Cong. 1st Sess., Jan. 19, 1943; 88 CONG. REC. 6544, 77th Cong. 2d Sess., July 23, 1942; and 8 Cannon's Precedents §§ 2270, 2753. See *House Rules and Manual* §729(b) (1981), for discussion of recommittal of special orders if the previous question is defeated.
6. 93 CONG. REC. 7845, 80th Cong. 1st Sess.
7. Joseph W. Martin, Jr. (Mass.).
8. 84 CONG. REC. 5535, 5536, 76th Cong. 1st Sess.
9. William B. Bankhead (Ala.).

The Speaker: The gentleman qualifies, and the Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. Powers moves to recommit the bill to the Committee on Appropriations with instructions to report the same back forthwith with amendments reducing the total amount of the bill $50,000,000.

Mr. [Ross A.] **Collins** [of Mississippi]: Mr. Speaker, I make the point of order that the motion to recommit undertakes to do indirectly what cannot be done directly.

The amount carried in this bill, with these amendments, totals $305,000,000. Part of it is for the Panama Canal, part for cemeterial expense, part for the Signal Corps and Alaskan Communications Commission, part for rivers and harbors, part for flood control, and part for the United States Soldiers' Home. Of the amount of $305,000,000, $277,000,000 is for rivers and harbors and flood control, leaving only $28,000,000 for all these other governmental activities. A reduction of $50,000,000 would take away a large part of the money carried in the two amendments voted in the House last Wednesday. A motion to recommit to do this cannot be done. This motion to recommit attempts to do indirectly what cannot be done directly. It proposes a second vote on the same propositions that were voted on last Wednesday; therefore is subject to a point of order.

The Speaker: The Chair may state, in connection with the point of order made by the gentleman from Mississippi, that the Chair understands the purpose of the motion to recommit, one motion to recommit always being in order after the third reading, is to give to those Members opposed to the bill an opportunity to have an expression of opinion by the House upon their proposition. It is true that under the precedents it is not in order by way of a motion to recommit to propose an amendment to an amendment previously adopted by the House, but the motion now pending does not specifically propose to instruct the Committee on Appropriations to do that. The Chair is inclined to the opinion that the motion to recommit in the form here presented is not subject to a point of order.

The Chair overrules the point of order.

Committee Action

§ 26.2 The House may, through use of the motion to recommit, instruct one of its committees to take certain actions which are not contrary to the rules of the House.

On Aug. 22, 1966,(10) the House was considering H.R. 16340, prohibiting picketing within 500 feet of any church in the District of Columbia. The following then occurred:

Mr. [Don] **Edwards** of California: Mr. Speaker, I offer a motion to recommit.

The Speaker Pro Tempore:(11) Is the gentleman opposed to the bill?

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10. 112 Cong. Rec. 20119, 89th Cong. 2d Sess.

11. Carl Albert (Okla.).

Mr. Edwards of California: I am, Mr. Speaker.

The Speaker Pro Tempore: The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. Edwards of California moves to recommit H.R. 16340 to the District of Columbia Committee with instructions to hold public hearings and to request a report of the Department of Justice and the testimony of the Attorney General.

The Speaker Pro Tempore: Without objection, the previous question is ordered.

Mr. [Wayne L.] Hays [of Ohio]: Mr. Speaker, I make a point of order against the motion to recommit. We cannot tell a committee who to call as witnesses and what kind of hearings to hold.

The Speaker Pro Tempore: The House has authority to instruct the committee. The motion is in order.

Investigation of Election Contest

§ 26.3 A resolution pertaining to an election contest may be recommitted to an elections committee with an instruction calling for a further investigation of the issues involved.

On Aug. 19, 1937,(12) Mr. John H. Kerr, of North Carolina, called up House Resolution 309, relating to the election contest of Roy v Jenks.

The Clerk will report the resolution. The Clerk read as follows:

> *Resolved,* That Arthur B. Jenks is not entitled to a seat in the House of Representatives in the Seventy-fifth Congress from the First Congressional District of the State of New Hampshire.
>
> *Resolved,* That Alphonse Roy is entitled to a seat in the House of Representatives in the Seventy-fifth Congress from the First Congressional District of the State of New Hampshire. . . .

Mr. [J. Mark] Wilcox [of Florida]: Mr. Speaker——

The Speaker:(13) For what purpose does the gentleman from Florida rise?

Mr. Wilcox: Mr. Speaker, I offer a motion to recommit.

The Clerk read as follows:

> Mr. Wilcox moves that this resolution be recommitted to the committee; that the committee be and hereby is authorized, empowered, and directed to take or cause to be taken the testimony of the 458 Newton residents shown by the town election records to have voted there in person on November 3, 1936, and such further testimony as the committee may consider relevant to better enable it to determine the issue raised by this case; and that the committee be authorized to expend such sums in its investigation as it may deem necessary, and report its findings and recommendations to this House at the next session of Congress.

Mr. Kerr: Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

The Speaker: The question is on the motion to recommit. . . .

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12. 81 Cong. Rec. 9356, 9374, 75th Cong. 1st Sess.

13. William B. Bankhead (Ala.).

The question was taken; and there were—yeas 231, nays 129, answered "present" 3, not voting 66. . . .

So the motion was agreed to.

Authority of Speaker as to Committee Instructions

§ 26.4 Where the House adopts a motion to recommit it is not within the province of the Speaker to advise or direct a committee in the performance of its duty under the terms of the motion.

On Aug. 19, 1937,(14) the House was considering House Resolution 309, relating to the election contest of Roy v Jenks. Mr. Jack Nichols, of Oklahoma, rose with a parliamentary inquiry:

MR. NICHOLS: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER:(15) The gentleman will state it.

MR. NICHOLS: Mr. Speaker, we of the committee are in a quandary in reference to the motion to recommit just adopted by the House and would ask that the Speaker examine the motion, if that is possible, and advise us what we are directed to do under the motion to recommit.

THE SPEAKER: It is not within the province of the Chair to undertake to direct the committee. The Chair feels the House itself, under the terms of the motion, has directed the committee as to the procedure.

Effect of Special Order

§ 26.5 A motion that the Committee of the Whole rise and report a bill back to the House with the recommendation that it be recommitted to the committee from which reported is not in order where the Committee of the Whole is considering the bill under a resolution setting out conditions which do not permit such motion.

On Aug. 10, 1950,(16) the Committee of the Whole was considering H.R. 9176, the Defense Production Act of 1950. Mr. John E. Rankin, of Mississippi, rose with a preferential motion:

The Clerk read as follows:

> Mr. Rankin moves that the Committee do now rise and report the bill back to the House with the recommendation that it be recommitted to the Committee on Banking and Currency for further hearings and study.

MR. [WRIGHT] PATMAN [of Texas]: Mr. Chairman, a point of order.

THE CHAIRMAN:(17) The gentleman will state it.

MR. PATMAN: Mr. Chairman, I make the point of order that this being a straight motion to recommit, without instructions, it is not permissible under the rule under which we are considering the bill in Committee.

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14. 81 CONG. REC. 9374, 9375, 75th Cong. 1st Sess.
15. William B. Bankhead (Ala.).
16. 96 CONG. REC. 12219, 81st Cong. 2d Sess.
17. Howard W. Smith (Va.).

THE CHAIRMAN: The Chair is ready to rule.

That motion is not in order in Committee of the Whole, and the Chair sustains the point of order.

MR. RANKIN: Mr. Chairman, it is in order to make a motion that the Committee do now rise and report the bill back to the House with the recommendation that it be recommitted to the Committee on Banking and Currency for further study and hearing.

THE CHAIRMAN: In the consideration of this bill the Committee of the Whole is operating under a special rule which lays down the conditions under which the bill is to be considered. The motion of the gentleman from Mississippi is not in order at this time.

Parliamentarian's Note: The special rule [H. Res. 740 agreed to Aug. 1, 1950] provided:

> *Resolved,* That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9176) to establish a system of priorities and allocations for materials and facilities, authorize the requisitioning thereof, provide financial assistance for expansion of productive capacity and supply, strengthen controls over credit, regulate speculation on commodity exchanges, and by these measures facilitate the production of goods and services necessary for the national security, and for other purposes, and all points of order against said bill are hereby waived. That after general debate, which shall be confined to the bill and continue not to exceed 1 day, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the bill shall be read for amendment under the 5-minute rule. It shall be in order to consider without the intervention of any point of order the substitute committee amendment recommended by the Committee on Banking and Currency now in the bill, and such substitute for the purpose of amendment shall be considered under the 5-minute rule as an original bill. At the conclusion of such consideration the committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any of the amendments adopted in the Committee of the Whole to the bill or committee substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

Effect of Recommittal on Amendments

§ 26.6 Where a bill reported to the House with committee amendments is recommitted, it is again before the committee in its original form—that is, as introduced or referred to that committee in the first instance. The committee must again vote on any amendments before re-reporting the measure.

Parliamentarian's Note: On Sept. 20, 1972,(18) the House by unanimous consent recommitted the bill S. 1316, to amend section 301 of the Federal Meat Inspection Act, to the Committee on Agriculture. Upon recommittal, the Parliamentarian advised the Committee on Agriculture that the Senate bill in the form passed by the Senate was pending before the committee, and that the committee would be required to act again upon the amendments in order to report the bill with committee amendments.

§ 26.7 Where the Senate recommits a bill to the committee which reported it such action nullifies all amendments agreed to on the floor, and, if this happens to a House bill, it goes back to the Senate committee in the same form in which it came from the House.

On May 11, 1949,(19) the Senate was considering H.R. 3083, a Treasury and Post Office appropriations bill for fiscal 1950. The following discussion took place on the floor of the Senate:

> THE VICE PRESIDENT:(20) The Chair will advise Senators that when a bill is recommitted to the committee from which it emanates, such action nullifies all amendments that have been agreed to on the floor of the Senate, and the bill goes back to the committee—if it happens to be a House bill—in the same shape in which it came to the Senate from the House, regardless of the intention of any Senator.

Status of Recommitted Conference Report

§ 26.8 When a conference report is recommitted to the conference committee the entire matter is again before that committee for consideration.

On Sept. 11, 1940,(1) the House was considering the conference report on S. 3550, making unlawful the transportation of convict-made goods in interstate commerce. Mr. Earl C. Michener, of Michigan, offered a motion to recommit the conference report and then posed the following parliamentary inquiry:

> MR. MICHENER: If this motion should carry, the conferees would then be permitted to go back and cut out all the exemptions which they have included here if they wanted.
>
> THE SPEAKER PRO TEMPORE:(2) The whole matter would be before the conferees.

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18. 118 CONG. REC. 31370, 31371, 92d Cong. 2d Sess.
19. 95 CONG. REC. 6039, 81st Cong. 1st Sess.
20. Alben W. Barkley (Ky.).

1. 86 CONG. REC. 11938, 76th Cong. 3d Sess.
2. Sam Rayburn (Tex.).

§ 26.9 Notwithstanding recommittal of a conference report to a committee of conference with instructions, the subsequent conference report is filed as privileged, given a new number, and otherwise treated as a new and separate report.

On May 8, 1963,(3) the House agreed to recommit the conference report (H. Rept. No. 275) on the supplemental appropriations bill (H.R. 5517) for fiscal 1963 to the committee of conference.

On May 14, 1963,(4) the new conference report on H.R. 5517, renumbered House Report No. 290, was submitted for consideration to the House.

§ 26.10 Where a conference report is recommitted to the committee of conference, and a second report is then filed by the conferees, this second report is numbered and otherwise treated by the House as a new and separate report.

Parliamentarian's Note: On June 30, 1962,(5) the conferees on the part of the House filed House Report No. 1955, the second conference report on S. 3161, to continue authority for the control of exports. The original conference report, House Report No. 1949, had been recommitted to the committee of conference. When the second report was filed, the question arose as to whether it should be given a new number, or numbered as part II of House Report No. 1949. It was given a new number, and the first report was not acted upon.

Recommittal of Improperly Reported Bills

§ 26.11 Where the chairman of a committee admits that a bill was reported when a quorum was not present in the committee, and a point of order is sustained against the bill on that ground, the bill is recommitted by order of the Speaker.

On Oct. 11, 1968,(6) the House was considering S. 2511, to maintain and improve the income of producers of crude pine gum. Mr. Paul Findley, of Illinois, made a point of order against the consideration of the bill on the grounds that it had been reported from the Committee on Agriculture sitting without a quorum being present.

The Speaker:(7) The Chair would like to inquire of the chairman of the

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3. 109 Cong. Rec. 8043, 88th Cong. 1st Sess.
4. *Id.* at pp. 8502, 8503.
5. 108 Cong. Rec. 12355, 87th Cong. 2d Sess.
6. 114 Cong. Rec. 30739, 90th Cong. 2d Sess.
7. John W. McCormack (Mass.).

Committee on Agriculture if a quorum was present when the bill was reported.

Mr. [William R.] Poage [of Texas]: Mr. Speaker, the chairman of the Committee on Agriculture was not present the day this bill was reported. The record indicates that there were only 14 members of the committee present at the time it was reported.

The Speaker: Does the gentleman from Texas state that the record of his committee shows there were 14 members present when the bill was acted upon and reported out?

Mr. Poage: That is correct.

The Speaker: Clause 27 of rule XI clearly covers this situation. Paragraph (e) of clause 27 of rule XI states:

> No measure or recommendation shall be reported from any committee unless a majority of the committee were actually present.

Upon the statement of the chairman of the committee, a majority of the committee were not actually present. Therefore, the point of order is sustained; and the bill is recommitted to the Committee on Agriculture.(8)

§ 26.12 Where a report of a committee fails to comply with the provisions of the Ramseyer rule and a point of order is sustained on that ground, the bill is recommitted to the committee reporting it.

On May 3, 1937,(9) the Clerk had just called up S. 709, to incorporate the National Education Association of the United States. Mr. Jesse P. Wolcott, of Michigan, rose with a parliamentary inquiry:

Mr. Wolcott: Mr. Speaker, if it appears from the report that subsection 2(a) of rule XXIII(10) commonly known as the Ramseyer rule, has not been complied with, is the bill automatically recommitted to the committee from which it was reported?

The Speaker:(11) If the point of order should be sustained, under the provision governing such cases the bill would automatically be recommitted to the committee from which it was reported.

Mr. Wolcott: Mr. Speaker, I make the point of order against the consideration of the bill (S. 709) that the so-called Ramseyer rule has not been complied with. . . .

The Speaker: The point of order is sustained, and the bill is recommitted to the Committee on Education.

Resolution Certifying Contumacious Conduct

§ 26.13 The House has adopted a motion recommitting a resolution certifying the contempt of a committee witness to the committee which reported the contumacious conduct.

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8. See also 114 Cong. Rec. 30751, 90th Cong. 2d Sess., Oct. 11, 1968.

9. 81 Cong. Rec. 4123, 4124, 75th Cong. 1st Sess.

10. Rule XIII clause 3, *House Rules and Manual* § 745 (1981).

11. William B. Bankhead (Ala.).

On July 13, 1971,(12) the House was considering House Resolution 534, certifying the contumacious conduct of Frank Stanton, president of CBS, as a witness before the Committee on Interstate and Foreign Commerce. After the previous question was ordered on motion by Mr. Harley O. Staggers, of West Virginia, Mr. Hastings Keith, of Massachusetts, rose to his feet:

Mr. Keith: Mr. Speaker, I offer a motion to recommit.

The Speaker:(13) Is the gentleman opposed to the resolution?

Mr. Keith: I am, Mr. Speaker.

The Speaker: The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. Keith moves to recommit House Resolution 534 to the Committee on Interstate and Foreign Commerce.

The Speaker: Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The Speaker: The question is on the motion to recommit. . . .

The question was taken; and there were—yeas 226, nays 181, answered "present" 2, not voting 24. . . .

So the motion to recommit was agreed to.

Bill on Consent Calendar

§ 26.14 A bill on the Consent Calendar has been recommitted to the committee which reported it.

On Apr. 4, 1949,(14) the House was considering a bill on the Consent Calendar (H.R. 1823), to establish a Women's Reserve as a branch of the Coast Guard Reserve. Immediately after the House adopted an amendment, Mr. Herbert C. Bonner, of North Carolina, then rose to his feet:

Mr. Bonner: Mr. Speaker, I offer a motion to recommit.

The Speaker:(15) The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. Bonner moves to recommit the bill to the Committee on Merchant Marine and Fisheries. . . .

The question was taken; and on a division (demanded by Mr. Marcantonio) there were—ayes 107, noes 89. . . .

The motion to recommit was agreed to.

Bill on Private Calendar

§ 26.15 A bill on the Private Calendar was, by unanimous consent, recommitted to the Committee on the Judiciary.

On Dec. 17, 1963,(16) the Clerk of the House called up the bill S.

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12. 117 Cong. Rec. 24723, 24752, 24753, 92d Cong. 1st Sess.
13. Carl Albert (Okla.).
14. 95 Cong. Rec. 3806, 3807, 81st Cong. 1st Sess.
15. Sam Rayburn (Tex.).
16. 109 Cong. Rec. 24796, 88th Cong. 1st Sess.

1272, for the relief of Viktor Jaanimets. The following occurred:

> **The Speaker Pro Tempore:**(17) Is there objection to the present consideration of the bill?
>
> **Mr. [Michael A.] Feighan** [of Ohio]: Mr. Speaker, I ask unanimous consent that the bill S. 1272 be recommitted to the Committee on the Judiciary.
>
> **The Speaker Pro Tempore:** Is there objection to the request of the gentleman from Ohio?
>
> There was no objection.

Recommittal of Pending Resolution

§ 26.16 The recommittal of a funding resolution and a privileged report thereon does not prevent the resolution from being called up by unanimous consent.

On Sept. 30, 1966,(18) the House recommitted House Resolution 1028, and its accompanying report No. 2158, providing funds for the Committee on House Administration, to that committee. Mr. Omar T. Burleson, of Texas, then rose to a parliamentary inquiry.

> **Mr. Burleson:** Mr. Speaker, by the report and resolution being recommitted, would that preclude a request on the part of the chairman of the committee to call the [resolution] up under consent?
>
> **The Speaker:**(19) The Chair will recognize the gentleman for that purpose.
>
> **Mr. Burleson:** Mr. Speaker, I ask unanimous consent for the immediate consideration of House Resolution 1028. . . .
>
> **The Speaker:** Is there objection to the request of the gentleman from Texas?
>
> **Mr. [Jonathan B.] Bingham** [of New York]: Mr. Speaker, I object.
>
> **The Speaker:** Objection is heard.

Instructions to Modify Amendment

§ 26.17 Absent a special rule, a motion to recommit may not include instructions to modify any part of an amendment previously agreed to by the House.

On May 4, 1960,(20) Mr. Charles A. Halleck, of Indiana, rose with the following parliamentary inquiry:

> **Mr. Halleck:** Mr. Speaker, earlier in the day I addressed a parliamentary inquiry to the Chair to which response was made. The parliamentary inquiry went to the question as to whether or not, as the Senate bill has been reported by the committee, a motion to recommit with instructions would be in order. Mr. Speaker, to further clarify the matter, the committee struck out all after the enacting clause of the Senate bill and substituted a complete amendment, which I take it would be offered if and when the bill were to be read for consideration. Under those cir-

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17. Carl Albert (Okla.).
18. 112 Cong. Rec. 24548, 89th Cong. 2d Sess.
19. John W. McCormack (Mass.).
20. 106 Cong. Rec. 9416, 9417, 86th Cong. 2d Sess.

> cumstances, Mr. Speaker, and in view of the fact that what some of us refer to as the administration bill, introduced by the gentleman from New York [Mr. Kilburn] is now on the calendar, the parliamentary inquiry is whether or not under the rules of the House a motion to recommit with instructions would be in order in order that a record vote could be had on such amendment as a substitute.
>
> THE SPEAKER:(1) The gentleman from Indiana has been kind enough to discuss this with the Chair.
>
> On further examining the rules and precedents of the House, under the situation as it exists, when we go into the Committee of the Whole and the amendment is adopted, and then agreed to in the House, the rules are that a motion to recommit with instructions will not be in order.(2)

Parliamentarian's Note: If an amendment in the nature of a substitute is agreed to in Committee of the Whole and ratified by the House, that text cannot thereafter be changed by a motion to recommit with instructions.

§ 26.18 Where the House has adopted an amendment in the nature of a substitute, such amendment cannot, absent a special rule, be further amended by way of a motion to recommit; and only a simple motion to recommit would be in order.

On June 17, 1952,(3) the House was considering S. 658, to amend the Communications Act of 1934. Mr. Charles A. Halleck, of Indiana, rose with the following parliamentary inquiry:

> MR. HALLECK: In view of the fact that the matter before us is a Committee amendment, a complete amendment to the whole bill, would any motion to recommit, except a straight motion to recommit, be in order?
>
> THE SPEAKER:(4) That is the only motion that would be in order under the rule.(5)

Amendment Reported in Disagreement by Conferees

§ 26.19 A motion to recommit an amendment reported in disagreement by the conferees is not in order.

On Oct. 17, 1967,(6) the House was considering the conference report and amendments in disagreement on H.R. 11476, appropriations for the Department of Transportation for fiscal 1968. After the conference report had been agreed to, the House proceeded to consider the amendments reported in disagreement,

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1. Sam Rayburn (Tex.).
2. See also 99 CONG. REC. 6156, 83d Cong. 1st Sess., June 5, 1953.
3. 98 CONG. REC. 7421, 82d Cong. 2d Sess.
4. Sam Rayburn (Tex.).
5. See also 106 CONG. REC. 9416, 9417, 86th Cong. 2d Sess., May 4, 1960.
6. 113 CONG. REC. 29044, 29048, 29049, 90th Cong. 1st Sess.

when Mr. Sidney R. Yates, of Illinois raised the following parliamentary inquiry:

> MR. YATES: Mr. Speaker, is it in order to move to recommit this particular amendment to conference?
>
> THE SPEAKER:(7) The Chair will state to the gentleman from Illinois that at this point it would not be in order to do so.

§ 27. Priorities in Recognition

Speaker's Power of Recognition

§ 27.1 On one occasion the Speaker took the floor in the Committee of the Whole to state that it was his prerogative to recognize any member of the minority for a motion to recommit when no member of the committee offers a motion.

On Feb. 3, 1944,(8) the Committee of the Whole was considering S. 1285, relating to voting by members of the armed forces. Mr. Joseph W. Martin, Jr., a Republican from Massachusetts, had indicated that he would be glad to have either Mr. Eugene Worley, a Democrat of Texas, or Mr. John Z. Anderson, a Republican of California, recognized to offer a motion to recommit. Mr. John J. Cochran, of Missouri, then yielded the floor to Speaker Sam Rayburn, of Texas:

> MR. RAYBURN: I trust that this colloquy will not take away from the Speaker what has always been his prerogative, to recognize any member of the minority to offer a motion to recommit when no member of the committee offers a motion.
>
> MR. COCHRAN: In my opinion no Member on the minority side who is a member of the committee can stand up, in view of the fact that they all signed the report, and say he is opposed to the bill. Therefore some person outside of the committee will have to do it.
>
> MR. MARTIN of Massachusetts: Mr. Chairman, will the gentleman yield?
>
> MR. COCHRAN: I yield.
>
> MR. MARTIN of Massachusetts: There will be no minority member of the committee, in my opinion, who can stand up and say he is opposed to the bill, but I would like to address a word or two to my beloved friend, the Speaker. I realize it rests with the Speaker to recognize the Member to make the motion to recommit. The clear intent of the rule, however, in my opinion, is to give that weapon of recommitment to the minority and not to any minority of the minority.
>
> MR. RAYBURN: I just wanted to make it entirely clear that I always recognize somebody in the minority if they qualify, but I could not allow anybody to commit me to recognize any particular member of the minority. The gentleman from Massachusetts would not ask me to do that, nor would he want

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7. John W. McCormack (Mass.).
8. 90 CONG. REC. 1221, 1222, 78th Cong. 2d Sess.

that done to him were our positions reversed.

What Constitutes Recognition

§ 27.2 The mere fact that the Speaker asks a Member "for what purpose does the gentleman rise" does not extend recognition to such Member to offer a motion to recommit.

On Apr. 13, 1946,(9) the House was considering H.R. 6064, authorizing an extension of the Selective Training and Service Act. The following occurred:

The Speaker:(10) The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time.

The Speaker: The question is on the passage of the bill.

Mr. [Dewey] Short [of Missouri]: Mr. Speaker.

Mr. [Edward E.] Cox [of Georgia]: Mr. Speaker.

The Speaker: For what purpose does the gentleman from Missouri rise?

Mr. Short: Mr. Speaker, I offer a motion to recommit.

The Speaker: For what purpose does the gentleman from Georgia rise?

Mr. Cox: Mr. Speaker, it was my purpose to demand a reading of the engrossed copy of the bill.

Mr. [Malcolm C.] Tarver [of Georgia]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Tarver: Mr. Speaker, may a demand be made for the reading of the copy of the engrossed bill after the proceedings which have just taken place and after the Clerk has read the bill which was considered engrossed?

The Speaker: The bill was ordered to be engrossed and read a third time. The gentleman from Georgia was on his feet at the time.

Does the gentleman from Georgia insist upon his demand that the engrossed copy of the bill be read?

Mr. Cox: Mr. Speaker, my making demand that the engrossed copy of the bill be read does not indicate my opposition to the bill.

Mr. Short: Mr. Speaker, I am opposed to the bill.

Mr. Cox: I was compelled to make the demand and I did make it.

The Speaker: The gentleman from Georgia [Mr. Cox] demands the reading of the engrossed copy of the bill. The Chair will state that with the number of amendments agreed to, it would be impossible to have the engrossed copy of the bill this afternoon.

Mr. [Vito] Marcantonio [of New York]: Mr. Speaker, a point of order.

The Speaker: The gentleman will state it.

Mr. Marcantonio: Mr. Speaker, if I understood the situation correctly, the gentleman from Missouri [Mr. Short] was recognized to offer a motion to recommit.

The Speaker: The gentleman from Missouri [Mr. Short] was not recognized. The Chair asked the gentleman for what purpose he rose, and then rec-

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9. 92 Cong. Rec. 3669, 79th Cong. 2d Sess.

10. Sam Rayburn (Tex.).

ognized the gentleman from Georgia.(11)

Recognition as Dependent on Opposition to Measure

§ 27.3 In recognizing a Member to move to recommit, the Speaker determines if the Member qualifies as being opposed to the bill.

On Apr. 27, 1966,(12) the House was considering H.R. 10065, the Equal Employment Opportunity Act of 1965. After the engrossed copy of the bill was read Mr. Joe D. Waggonner, Jr., of Louisiana, was recognized, and the following occurred:

Mr. Waggonner: Mr. Speaker, I offer a motion to recommit.

The Speaker:(13) Is the gentleman opposed to the bill?

Mr. Waggonner: I am, Mr. Speaker.

The Speaker: The Clerk will report the motion to recommit.(14)

Member's Attitude Toward Measure is Only Relevant Inquiry

§ 27.4 The Speaker recognized a Member for a motion to recommit who stated that he was opposed to the form of the bill, although another Member said he was unqualifiedly opposed to the bill.

On Mar. 12, 1964,(15) the House was considering H.R. 8986, relating to salary increases for federal officers and employees. The following then occurred:

Mr. [Robert J.] Corbett [of Pennsylvania]: Mr. Speaker, I offer a motion to recommit.

The Speaker:(16) Is the gentleman opposed to the bill?

Mr. Corbett: I am opposed to the bill in its present form.

The Speaker: The gentleman qualifies.

Mr. [H. R.] Gross [of Iowa]: Mr. Speaker——

The Speaker: For what purpose does the gentleman from Iowa rise?

Mr. Gross. Under the rules of the House, Cannon's Procedure in the House of Representatives, a member of the committee who is unqualifiedly opposed to the bill takes precedence over a member who qualifies his opposition.

The Speaker: The Chair understands that the gentleman from Pennsylvania is opposed to the bill in its present form.

Mr. Gross: I am opposed to it unqualifiedly.

The Speaker: Since the gentleman from Pennsylvania is opposed to the bill in its present form, the Chair rules that the gentleman from Pennsylvania qualifies.

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11. See also 101 Cong. Rec. 9379, 84th Cong. 1st Sess., June 28, 1955.
12. 112 Cong. Rec. 9153, 89th Cong. 2d Sess.
13. John W. McCormack (Mass.).
14. See also 95 Cong. Rec. 3110–15, 81st Cong. 1st Sess., Mar. 24, 1949; and 86 Cong. Rec. 11938, 76th Cong. 3d Sess., Sept. 11, 1940.
15. 110 Cong. Rec. 5147, 88th Cong. 2d Sess.
16. John W. McCormack (Mass.).

The Clerk will report the motion to recommit.(17)

Acceptance of Member's Declaration of Opposition

Parliamentarian's Note: The following precedents demonstrate the current and the older practice with respect to qualifying to offer the motion to recommit. Under the current practice (§§ 27.5–27.9, infra) a Member opposed to the bill "in its present form" qualifies. The earlier rulings (§§ 27.10, and 27.11, infra) illustrate a distinction between qualified and total opposition.

§ 27.5 Members of the minority have preference of recognition for motions to recommit and, if they qualify as being opposed to the bill, the Chair never questions their veracity.

On Apr. 8, 1957,(18) the House was considering H.R. 6500, making appropriations for the government of the District of Columbia and for other purposes. Mr. Paul C. Jones, of Missouri (of the majority party), and Mr. Earl Wilson, of Indiana (of the minority party and a member of the Committee on Appropriations), rose at the same time to offer motions to recommit.

Mr. Jones of Missouri: Mr. Speaker, I offer a motion to recommit.

Mr. Wilson of Indiana: Mr. Speaker, I offer a motion to recommit.

The Speaker:(19) Is the gentleman from Indiana opposed to the bill?

Mr. Wilson of Indiana: I am.

The Speaker: The gentleman qualifies. . . .

Mr. Jones of Missouri: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Jones of Missouri: When a Member makes a motion to recommit and the Chair asks him if he is against the bill, would the proceedings during the afternoon when he is for the bill——

The Speaker: The Chair never questions a Member about his motives or whether or not he is telling the truth.

Mr. Jones of Missouri: I was just asking for information.

The Speaker: The gentleman from Indiana offered a motion to recommit. The motion always goes to the minority if they desire it, and the gentleman qualifies by saying he was opposed to the bill.

§ 27.6 When a Member has stated that he is opposed to a bill, the Speaker will not entertain a point of order against a motion by that Member to recommit with instructions on the grounds that the motion shows

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17. See also 104 Cong. Rec. 12974, 85th Cong. 2d Sess., July 2, 1958.

18. 103 Cong. Rec. 5294, 85th Cong. 1st Sess.

19. Sam Rayburn (Tex.).

the Member not to be opposed and not qualified.

On July 2, 1958,(20) Mr. John Taber, of New York, rose and was recognized by the Speaker.

Mr. Taber: Mr. Speaker, I offer a motion to recommit.

The Speaker:(1) Is the gentleman opposed to the bill?

Mr. Taber: I am.

Mr. Homer H. Budge, of Idaho, inquired whether he, who was unqualifiedly opposed to the bill, was entitled to prior recognition to offer a motion to recommit.

The Speaker: The gentleman from New York has qualified by his statement that he was opposed to the bill. What other thought the gentleman from New York may have had in his mind the Chair is unable to determine.

The Clerk will report the motion.

The Clerk read as follows:

> Mr. Taber moves to recommit the bill to the Committee on Appropriations with instructions to report the same back forthwith together with the following amendment: Page 2, line 10, strike out "$700,000,000" and insert in lieu thereof "$775,000,000."

At this point Mr. Clare E. Hoffman, of Michigan, rose to a point of order.

Mr. Hoffman: Mr. Speaker, I make a point of order against the motion to recommit on the ground that the motion itself shows that the gentleman is not qualified.

The Speaker: The Chair cannot entertain such a point of order after the statement made by the gentleman from New York.

Effect of Qualified or Limited Opposition

§ 27.7 Where a Member seeking recognition to offer a motion to recommit a bill states he is opposed to "some features" of the bill, the Chair may conclude that he is opposed to the bill and therefore recognize him to make the motion.

On Apr. 15, 1948,(2) the House was considering H.R. 6226, supplemental national defense appropriations for 1948. After the engrossed copy of the bill was read Mr. John H. Kerr, of North Carolina, was recognized.

Mr. Kerr: Mr. Speaker, I offer a motion to recommit.

The Speaker:(3) Is the gentleman opposed to the bill?

Mr. Kerr: I am opposed to some features of it.

Mr. [Vito] Marcantonio [of New York]: Mr. Speaker, a point of order. The gentleman says that he is opposed to some features of the bill. My understanding of the rules is that the gentleman must be opposed to the bill.

The Speaker: The gentleman has stated that he is opposed to some features of the bill, and the Chair must interpret that to mean that he is opposed to the bill.

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(20) 104 Cong. Rec. 12974, 85th Cong. 2d Sess.

(1) Sam Rayburn (Tex.).

(2) 94 Cong. Rec. 4547, 80th Cong. 2d Sess.

(3) Joseph W. Martin, Jr. (Mass.).

The gentleman from North Carolina qualifies. The Clerk will report the motion to recommit.

§ 27.8 The Speaker indicated in response to a parliamentary inquiry that a minority member of a committee reporting a bill who is opposed to the bill "in its present form" qualifies to offer a motion to recommit since he is opposed to the bill then before the House.

On Apr. 16, 1970,[4] the House was considering H.R. 16311, the Family Assistance Act of 1970. Mr. Harold R. Collier, of Illinois, was then recognized to offer a motion to recommit.

MR. COLLIER: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER:[5] Is the gentleman opposed to the bill?

MR. COLLIER: In its present form I am, Mr. Speaker.

THE SPEAKER: The gentleman qualifies.

MR. [PHILLIP M.] LANDRUM [of Georgia]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state the parliamentary inquiry.

MR. LANDRUM: Mr. Speaker, is it not true under the rules of the House that the motion to recommit should go to one who is unqualifiedly opposed to the bill?

THE SPEAKER: The Chair will state that a Member who states that he is opposed to the bill in its present form qualifies.

MR. LANDRUM: Mr. Speaker, is that not a modification of the rule that a Member in order to qualify must be opposed to the bill?

THE SPEAKER: The gentleman from Illinois (Mr. Collier) qualifies because he has stated he is in opposition to the bill in its present form, which is the bill now before the House.

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state the parliamentary inquiry.

MR. GROSS: Mr. Speaker, the gentleman from Illinois has repeatedly stated, as recently as a few minutes ago, that he firmly supports the bill.

MR. COLLIER: Mr. Speaker, I said I firmly support the principle and the concept of the bill. That is what I said, but I am opposed to the bill in its present form.

THE SPEAKER: The gentleman from Illinois has stated that he is opposed to the bill in its present form. Therefore, the gentleman, with that statement, and upon his responsibility, qualifies.[6]

§ 27.9 In qualifying a Member to offer a motion to recommit, the Chair makes no distinction between a Member who states that he is opposed to the bill in its present form and another who

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4. 116 CONG. REC. 12063, 12092, 91st Cong. 2d Sess.

5. John W. McCormack (Mass.).

6. See also 115 CONG. REC. 28487, 28488, 91st Cong. 1st Sess., Oct. 3, 1969; and 110 CONG. REC. 5147, 88th Cong. 2d Sess., Mar. 12, 1964.

is opposed to the bill in its entirety.

On Oct. 3, 1969,(7) the House was considering H.R. 14000, authorizing military procurement for fiscal 1970. The Speaker, John W. McCormack, of Massachusetts, recognized Mr. Alvin E. O'Konski, of Wisconsin, and the following then occurred:

Mr. O'Konski: Mr. Speaker, I offer a motion to recommit.

The Speaker: Is the gentleman opposed to the bill?

Mr. O'Konski: In its present form, emphatically yes.

Mr. [Otis G.] Pike [of New York]: Mr. Speaker, a point of order.

The Speaker: The gentleman will state his point of order.

Mr. Pike: Mr. Speaker, Cannon's Precedents of the House of Representatives volume 8, section 2731, says:

> Recognition to move recommitment is governed by the attitude of the Member toward the bill, and a Member opposed to the bill as a whole is entitled to prior recognition over a Member opposed to a portion of the bill.

Mr. Speaker, I submit that there were two gentlemen on their feet on the other side, one of whom has voted against the bill as a whole, both seeking recognition for the privilege of offering the motion to recommit. I would submit that under that rule of the House the gentleman who stated that he was opposed to it only in its present form should yield to the gentleman who has voted against the entire bill.

The Speaker: The Chair will state that the gentleman from Wisconsin (Mr. O'Konski) has stated he is opposed to the bill in its present form before the House is the bill H.R. 14000, as amended, and therefore the gentleman qualifies.

The point of order is overruled.(8)

Parliamentarian's Note: Mr. O'Konski and Mr. Chalmers P. Wylie (Ohio) who were both minority members of the Committee on Armed Services, each sought recognition to offer a motion to recommit. Speaker McCormack in overruling 8 Cannon's Precedents § 2731 apparently relied on the fact that Mr. O'Konski was the senior minority member of the Committee on Armed Services, the committee that had reported the measure at issue.

§ 27.10 Under the earlier practice, a Member opposed to a conference report "in its present form" was qualified to move to recommit such a report, but if another Member opposed to the report without reservation desired recognition to offer the motion, he was accorded priority.

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7. 115 Cong. Rec. 28487, 28488, 91st Cong. 1st Sess.

8. See also 116 Cong. Rec. 12063, 12092, 91st Cong. 2d Sess., Apr. 16, 1970.

On Oct. 18, 1949,(9) the House was considering the conference report on H.R. 5856, the Fair Labor Standards Amendments of 1949. When Mr. A. S. Mike Monroney, of Oklahoma, was recognized, the following occurred:

Mr. Monroney: Mr. Speaker, I offer a motion to recommit.

The Speaker:(10) Is the gentleman opposed to the conference report?

Mr. Monroney: I am, Mr. Speaker, in its present form.

The Speaker: The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. Monroney moves to recommit the conference report to the conference committee with instructions to the managers on the part of the House to further insist upon the House provisions for the exemption of employees of newspapers of circulation of 5,000 or under.

Mr. [Walter E.] Brehm [of Ohio]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Brehm: If I understood the gentleman from Oklahoma correctly, he said he was opposed to the bill in its present form. If I understand the rules correctly, that is incorrect. He is either opposed to it or he is for it. I wonder if the gentleman will state his position?

The Speaker: If the gentleman is opposed to the bill in its present form he would be opposed to it. However, if some other Member had asked to qualify to submit a motion to recommit, and said he was absolutely opposed to the bill, unequivocally, as a gentleman said the other day, then of course the Speaker would recognize him.(11)

§ 27.11 Under the earlier practice, a Member opposed to a bill without reservation had priority to offer a motion to recommit the bill over one opposed merely to the bill "in its present form"; and where a Member opposed to a bill in its present form offered the motion, the Speaker asked "is there any member opposed without reservation who desires to make such a motion."

On May 24, 1949,(12) the House was considering H.R. 4591, relating to pay, allowances, and physical disability retirement for members of the armed forces. Mr. Francis H. Case, of South Dakota, was recognized and the following occurred:

Mr. Case of South Dakota: Mr. Speaker, I offer a motion to recommit.

The Speaker:(13) Is the gentleman opposed to the bill?

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9. 95 Cong. Rec. 14943, 81st Cong. 1st Sess.
10. Sam Rayburn (Tex.).
11. The rule referred to by Speaker Rayburn has not been invoked in recent years. Speaker McCormack's rulings (see §§ 27.8, 27.9, supra) reflect the current practice.
12. 95 Cong. Rec. 6772, 6773, 81st Cong. 1st Sess.
13. Sam Rayburn (Tex.).

MR. CASE of South Dakota: I am, Mr. Speaker, in its present form.

THE SPEAKER: Does any Member desire to offer a motion to recommit without reservation? [After a pause.] The Chair hears none. The gentleman from South Dakota is the only Member that qualifies under the circumstances.

Vote on Recommitted Measure

§ 27.12 A Member making a motion to recommit must qualify as being opposed to the measure under consideration, and is expected to indicate his opposition by voting against passage of the measure if the motion to recommit is rejected; however, where the proponent of a motion to recommit with instructions is successful in having this motion adopted, and the instructions accompanying the motion are agreed to by the House, he remains under no obligation to vote against the bill on final passage.

On Dec. 2, 1969,(14) the House was considering House Resolution 613, affirming its support for President Richard M. Nixon's conduct of war in Viet Nam. Mr. James G. Fulton, of Pennsylvania, moved to recommit the resolution with instructions to the Committee on Foreign Affairs. After his motion was adopted by the House, Mr. Fulton voted in favor of the resolution as amended by that motion.

Recognition of Member Favoring Measure

§ 27.13 A Member may be recognized to offer a motion to recommit even though he is not opposed to the bill if no Member opposed seeks recognition.

On Jan. 24, 1946,(15) the House was considering H.R. 5201, appropriations for independent offices for fiscal 1947, when Mr. John Taber, of New York, was recognized.

MR. TABER: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER PRO TEMPORE:(16) Is the gentleman opposed to the bill?

MR. TABER: I am not, Mr. Speaker.

MR. [JOE] HENDRICKS [of Florida]: Mr. Speaker, a point of order.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. HENDRICKS: Did the gentleman from New York say he was against the bill?

MR. TABER: I did not. That relates only to the privilege of offering it. A Member who is opposed to the bill would be entitled to prior recognition.

MR. HENDRICKS: Mr. Speaker, I make the point of order that unless the gen-

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14. 115 CONG. REC. 36536, 36537, 91st Cong. 1st Sess.

15. 92 CONG. REC. 370, 79th Cong. 2d Sess.

16. John W. McCormack (Mass.).

tleman is opposed to the bill he cannot offer a motion to recommit.

The Speaker Pro Tempore: Is there any Member of the minority party who is opposed to the bill who desires to offer a motion to recommit? [After a pause.] The Chair hears none.

The Clerk will report the motion to recommit offered by the gentleman from New York.

Proponent of Amendment to Motion to Recommit

§ 27.14 In response to a parliamentary inquiry, the Speaker indicated that if the previous question were voted down on a motion to recommit, the person offering an amendment to the motion would not necessarily have to qualify as being opposed to the bill.

On June 26, 1968,(17) the House was considering H.R. 18037, Labor and HEW appropriations for fiscal 1969. After Mr. Robert H. Michel, of Illinois, was recognized to offer a motion to recommit, Mr. Charles A. Halleck, of Indiana, was recognized to propound a parliamentary inquiry:

Mr. Halleck: Is it not true that under the rules a motion to recommit, under the long-established precedents of the House of Representatives, shall go to the ranking member on the minority side of the committee involved?

The Speaker:(18) The Chair has recognized and complied with that custom and practice in recognizing the gentleman from Illinois on the motion to recommit.

Mr. Michel: Mr. Speaker, a further parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Michel: Is it not also true that for one to qualify to amend a motion to recommit, one would also have to be opposed to the bill?

The Speaker: At that stage, should it develop, not necessarily.

Members of the Minority

§ 27.15 In recognizing a Member for a motion to recommit, the Speaker gives preference to a minority member if opposed to the measure.

On Mar. 29, 1954,(19) the House was considering House Resolution 468, authorizing expenditures to be paid out of the contingent fund of the House. The following occurred:

Mr. [Augustine B.] Kelley of Pennsylvania: Mr. Speaker, I offer a motion to recommit.

The Speaker:(20) Is the gentleman opposed to the resolution?

Mr. Kelley of Pennsylvania: I am, Mr. Speaker.

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17. 114 Cong. Rec. 18940, 18941, 90th Cong. 2d Sess.

18. John W. McCormack (Mass.).

19. 100 Cong. Rec. 3962–67, 83d Cong. 2d Sess.

20. Joseph W. Martin, Jr. (Mass.).

Mr. [Clare E.] Hoffman of Michigan: Mr. Speaker, I have a motion to recommit with instructions.

The Speaker: The Chair is obliged to say that, by reason of a time-honored custom, the motion to recommit belongs to the minority party if they claim the privilege, and in this instance they have claimed it. Therefore, the Chair is constrained to recognize the gentleman from Pennsylvania [Mr. Kelley], for that purpose.(1)

§ 27.16 On one occasion, the Speaker intended to recognize the Chairman of the Committee on the Judiciary to offer a motion to recommit, but the Minority Leader claimed that the motion to recommit was the prerogative of the minority and the Speaker recognized a minority member of the Committee on Interstate and Foreign Commerce, the committee which had reported the matter to the House, to offer the motion.

On July 13, 1971,(2) the House was considering a resolution (H. Res. 534) certifying the contumacious conduct of Frank Stanton, the president of CBS, as a witness before the Committee on Interstate and Foreign Commerce. Mr. Hastings Keith, of Massachusetts, a member of that committee, was recognized to offer a motion to recommit the resolution to the Committee on Interstate and Foreign Commerce.(3)

Minority Member Opposed to Measure in Its "Present Form"

§ 27.17 Under the prior practice, the Speaker extended recogni-

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(1) See also 101 Cong. Rec. 3950, 84th Cong. 1st Sess., Mar. 29, 1955; 92 Cong. Rec. 10104, 79th Cong. 2d Sess., July 25, 1946; 89 Cong. Rec. 9899, 78th Cong. 1st Sess., Nov. 23, 1943; 88 Cong. Rec. 478, 77th Cong. 2d Sess., Jan. 19, 1942; and 86 Cong. Rec. 8214, 76th Cong. 3d Sess., June 13, 1940.

(2) 117 Cong. Rec. 24723, 24752, 24753, 92d Cong. 1st Sess.

(3) *Parliamentarian's Note:* The *Congressional Record* indicates only that Mr. Keith, a Republican, was recognized to offer a motion to recommit. However, prior to consideration of the resolution, the Speaker had announced to the press his support of a motion to recommit the resolution to the Committee on the Judiciary for further study of the constitutional questions involved. During consideration of the resolution, however, the Minority Leader, Gerald R. Ford (Mich.), suggested that recognition to offer the motion to recommit was the prerogative of the minority, whereas the Speaker had indicated that he would recognize Emanuel Celler (N.Y.), Chairman of the Committee on the Judiciary, to offer the motion. The Speaker therefore agreed to recognize a minority member of the Committee on Interstate and Foreign Commerce to offer the motion.

tion to a minority member "opposed to the bill in its present form" over a majority member with the same qualification where no one stated he was opposed to the bill without qualification.

On July 7, 1949,(4) the House was considering S. 1008, to define the application of the Federal Trade Commission and the Clayton Act to certain pricing practices. Mr. H. R. Gross, of Iowa, offered a motion to recommit, and the Speaker, Sam Rayburn, of Texas, posed the following question:

> THE SPEAKER: Is the gentleman opposed to the bill?
>
> MR. GROSS: I am, in its present form.
>
> THE SPEAKER: Is there anyone opposed to the bill without qualification?
>
> MR. [JOSEPH L.] EVINS [of Tennessee]: Mr. Speaker, I have a motion to recommit.
>
> THE SPEAKER: Is the gentleman from Tennessee opposed to the bill?
>
> MR. EVINS: I am, in its present form.
>
> THE SPEAKER: The gentleman does not qualify any more than the gentleman from Iowa.(5)

Minority Members of Reporting Committee

§ 27.18 In recognizing Members to move to recommit, the Speaker gives preference to minority members of the committee reporting the bill.

On June 19, 1959,(6) the following occurred on the floor of the House:

> MR. [WRIGHT] PATMAN [of Texas]: Mr. Speaker, I have a motion to recommit.
>
> MR. [NOAH M.] MASON [of Illinois]: Mr. Speaker, I offer a motion to recommit, which is at the Clerk's desk.
>
> THE SPEAKER:(7) The gentleman from Illinois [Mr. Mason], a member of the Committee on Ways and Means, and in the minority, has the right to make the motion to recommit.
>
> Is the gentleman from Illinois opposed to the bill?
>
> MR. MASON: I am, Mr. Speaker.
>
> THE SPEAKER: The Clerk will report the motion to recommit.

§ 27.19 On one occasion a minority member of a committee reporting a bill offered a straight motion to recommit (having qualified as being opposed to the bill), and then voted against that motion.

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4. 95 CONG. REC. 9074, 81st Cong. 1st Sess.
5. *Parliamentarian's Note:* Mr. Evins was a Democrat and hence a member of the majority party in the 81st Congress.
6. 105 CONG. REC. 11372, 86th Cong. 1st Sess.
7. Sam Rayburn (Tex.).

On Sept. 16, 1971,(8) the House was considering H.R. 1746, the Equal Employment Opportunity Act of 1971. Mr. John M. Ashbrook, of Ohio, was then recognized.

Mr. Ashbrook: Mr. Speaker, I offer a motion to recommit.

The Speaker:(9) Is the gentleman opposed to the bill?

Mr. Ashbrook: I am, Mr. Speaker.

The Speaker: The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. Ashbrook moves that the bill H.R. 1746 be recommitted to the Committee on Education and Labor. . . .

The yeas and nays were ordered.

The question was taken; and there were—yeas 130, nays 270, not voting 33.

Mr. Ashbrook was listed among those voting nay.

Recognizing Minority Members of Reporting Committee

§ 27.20 In recognizing Members to move to recommit, the Speaker gives preference first to the ranking minority member of the committee reporting the bill; then to the remaining minority members of that committee in the order of their rank.

On June 18, 1957,(10) the House was considering H.R. 6127, a civil rights bill. Mr. Joseph W. Martin, Jr., of Massachusetts, inquired as to the relative priorities in recognition to offer the motion to recommit. The Speaker, Sam Rayburn, of Texas, responded to the inquiry by citing a ruling by former Speaker Champ Clark:

The Speaker: The Chair in answer to that will ask the Clerk to read the holding of Mr. Speaker Champ Clark, which is found in volume 8 of Cannon's Precedents of the House of Representatives, section 2767.

The Clerk read as follows:

> The Chair laid down this rule, from which he never intends to depart unless overruled by the House, that on a motion to recommit he will give preference to the gentleman at the head of the minority list, provided he qualifies, and then go down the list of the minority of the committee until it is gotten through with. And then if no one of them offer a motion to recommit the Chair will recognize the gentleman from Kansas [Mr. Murdock], as the leader of the third party in the House. Of course he would have to qualify. The Chair will state it again. The present occupant of the chair laid down a rule here about a year ago that in making this preferential motion for recommitment the Speaker would recognize the top man on the minority of the committee if he qualified—that is, if he says he is opposed to the bill—and so on down to the end of the minority list of the committee. . . .

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(8) 117 Cong. Rec. 32112, 92d Cong. 1st Sess.

(9) Carl Albert (Okla.).

(10) 103 Cong. Rec. 9516, 9517, 85th Cong. 1st Sess.

THE SPEAKER: . . . In looking over this list, the Chair has gone down the list and will make the decision when someone arises to make a motion to recommit. The Chair does not know entirely who is going to seek recognition.

MR. [RICHARD H.] POFF [of Virginia]: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER: Is the gentleman opposed to the bill?

MR. POFF: I am, Mr. Speaker.

MR. [RUSSELL W.] KEENEY [of Illinois]: Mr. Speaker, I also offer a motion to recommit, and I, too, am opposed to the bill.

THE SPEAKER: In this instance the Chair finds that no one has arisen who is a member of the minority of the Committee on the Judiciary until it comes down to the name of the gentleman from Virginia [Mr. Poff]. He ranks the gentleman from Illinois [Mr. Keeney] and is therefore senior. Under the rules and precedents of the House, the Chair therefore must recognize the gentleman from Virginia [Mr. Poff].(11)

§ 27.21 Members of the committee reporting a measure are entitled to prior recognition for the purpose of offering a motion to recommit if they qualify as being opposed to the measure.

Parliamentarian's Note: On June 29, 1937,(12) the House was considering H.R. 7562, the farm tenancy bill. The Speaker, William B. Bankhead, of Alabama, recognized Mr. Gerald J. Boileau, of Wisconsin, to offer a motion to recommit, although Mr. Joseph W. Martin, Jr., of Massachusetts, was also on his feet attempting to offer a motion to recommit. Since Mr. Boileau was a member of the Committee on Agriculture and Mr. Martin was not, the Speaker accorded prior recognition to Mr. Boileau. Upon discovering that Mr. Boileau was not opposed to the measure, the Speaker recognized Mr. Martin to offer his motion to recommit.

§ 27.22 Recognition to offer a motion to recommit was extended to a minority member of the committee which reported the bill under consideration, who qualified as being opposed to the bill "in its present form," although a majority member of the committee, totally opposed to the bill, was on his feet seeking recognition.

Parliamentarian's Note: On June 30, 1969,(13) the House was considering H.R. 12290, continuing an income tax surcharge and certain excise taxes through fiscal 1970.

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(11) See also 116 CONG. REC. 17327, 91st Cong. 2d Sess., May 28, 1970; and 114 CONG. REC. 18914, 90th Cong. 2d Sess., June 26, 1968.

(12) 81 CONG. REC. 6580, 6581, 75th Cong. 1st Sess.

(13) 115 CONG. REC. 17874, 91st Cong. 1st Sess.

The Speaker[14] recognized Mr. Charles E. Chamberlain, of Michigan, who opposed the bill "in its present form," to offer a motion to recommit, although a member of the majority party who was totally opposed to the bill was on his feet seeking recognition.

Mr. Chamberlain: Mr. Speaker, I offer a motion to recommit.

The Speaker: Is the gentleman opposed to the bill?

Mr. Chamberlain: I am, Mr. Speaker, in its present form.

The Speaker: The Clerk will report the motion to recommit.

§ 27.23 A member of the committee reporting a measure, if opposed to the bill in its final form, is entitled to move to recommit over one not a member of the committee.

On Oct. 9, 1951,[15] the House was considering S. 1959, to amend the National Labor Relations Act. After Mr. Clare E. Hoffman, of Michigan, offered a motion to recommit Mr. Cleveland M. Bailey, of West Virginia, a member of the majority, rose with a parliamentary inquiry:

Mr. Bailey: Mr. Speaker, a parliamentary inquiry.

The Speaker:[16] The gentleman will state it.

Mr. Bailey: Mr. Speaker, as a member of the Committee on Education and Labor, do I not have the privilege of recognition?

Mr. [Charles A.] Halleck [of Indiana]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Halleck: May I inquire if it is not the practice and the rules of the House of Representatives that the right to offer a motion to recommit goes first to someone on the minority side?

The Speaker: In response to the gentleman from Indiana, that is correct, if he is a member of the committee, reporting the bill. The Chair quotes from page 301 of Cannon's procedure in the House of Representatives as follows:

> A member of the committee reporting the measure and opposed to it is entitled to recognition to move to recommit over one not a member of the committee.

Mr. [Walter E.] Brehm [of Ohio]: Mr. Speaker, I offer a motion to recommit.

The Speaker: The Chair will hold that the gentleman is not too late in offering the motion. Is the gentleman opposed to the bill?

Mr. Brehm: I am, Mr. Speaker.

The Speaker: The Clerk will report the motion, and that motion must be in writing.[17]

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[14] John W. McCormack (Mass.).

[15] 97 Cong. Rec. 12863, 82d Cong. 1st Sess.

[16] Sam Rayburn (Tex.).

[17] *Parliamentarian's Note:* Both Mr. Brehm and Mr. Hoffman were members of the minority party, however,

§ 27.24 On one occasion a minority member of the Committee on Ways and Means, which had considered title three of a bill reported by the Committee on Public Works, was recognized to offer a straight motion to recommit to the Committee on Public Works, although a minority member of the Committee on Public Works also opposed to the bill, sought to offer a motion to recommit with instructions.

On Nov. 25, 1970,(18) the House was considering H.R. 19504, relating to federal aid for highway construction. The Speaker, John W. McCormack, of Massachusetts, recognized Mr. Joel T. Broyhill, of Virginia, to offer a motion to recommit:

> Mr. Broyhill of Virginia: Mr. Speaker, I offer a motion to recommit.
>
> The Speaker: Is the gentleman from Virginia opposed to the bill?
>
> Mr. Broyhill of Virginia: I am, Mr. Speaker.
>
> Mr. [Fred] Schwengel [of Iowa]: Mr. Speaker, a parliamentary inquiry.
>
> The Speaker: The gentleman will state the parliamentary inquiry.
>
> Mr. Schwengel: Mr. Speaker, I speak as a member of the Committee on Public Works. This is a public works bill. I have a recommittal motion at the desk which was filed earlier this afternoon.
>
> The Speaker: The Chair will state that title III of the bill is a provision that has come from the Committee on Ways and Means. The gentleman from Virginia (Mr. Broyhill) is a member of the Committee on Ways and Means.

Parliamentarian's Note: Mr. Broyhill had been a Member of Congress since the onset of the 83d Congress. Mr. Schwengel had begun his service with the 84th Congress, and after being defeated for a term in the 89th Congress, returned with the 90th Congress.

Recognizing Majority Member Opposed to Measure

§ 27.25 Where no Member from the minority side seeks recognition to offer a motion to recommit, the Chair recognizes a Member from the majority side who qualifies as being opposed to measure.

On Apr. 5, 1967,(19) the House was considering House Resolution 221, appropriating funds for the administration of the House. After the Speaker, John W. McCormack, of Massachusetts, ruled out on a point of order a motion to recommit offered by Mr. John Ashbrook, of Ohio, Mr.

Mr. Brehm was a member of the Committee on Education and Labor and Mr. Hoffman was not.

18. 116 Cong. Rec. 38997, 91st Cong. 2d Sess.

19. 113 Cong. Rec. 8441, 8442, 90th Cong. 1st Sess.

Sidney R. Yates, of Illinois, was recognized on a parliamentary inquiry:

> **Mr. Yates**: Mr. Speaker, in view of the fact that the Chair ruled out the motion to recommit made by a member of the minority, is it in order for the gentleman from California [Mr. Edwards], who is on his feet seeking recognition to offer a motion to recommit?
>
> **The Speaker**: If no Member on the minority side seeks recognition to offer a motion to recommit, then a Member on the majority side may be recognized to offer a motion to recommit.
>
> **Mr. [Don] Edwards** of California: Mr. Speaker——
>
> **The Speaker**: For what purpose does the gentleman from California rise?
>
> **Mr. Edwards** of California: Mr. Speaker, I offer a motion to recommit.
>
> **The Speaker**: Is the gentleman opposed to the resolution?
>
> **Mr. Edwards** of California: I am, Mr. Speaker.
>
> **The Speaker**: The gentleman qualifies.
>
> The Clerk will report the motion to recommit.(20)

Floor Manager of Measure

§ 27.26 The chairman of the committee reporting a bill who had managed the bill during its consideration on the floor of the House offered a motion to recommit with instructions to report it back with an amendment which he had offered, and which had been rejected, in the Committee of the Whole.

On Apr. 22, 1968,(1) the House was considering H.R. 16409, the District of Columbia Teachers' Salary Act. After the bill was read for the third time, John L. McMillan, of South Carolina, the Chairman of the Committee on the District of Columbia rose to his feet:

> **Mr. McMillan**: Mr. Speaker, I offer a motion to recommit.
>
> **The Speaker**:(2) Is the gentleman opposed to the bill?
>
> **Mr. McMillan**: In its present form I am opposed to the bill.
>
> **The Speaker**: The Clerk will report the motion to recommit.
>
> The Clerk read as follows:
>
>> Mr. McMillan moves to recommit the bill H.R. 16409 to the Committee on the District of Columbia with instructions to report the bill back forthwith with the following amendment: On page 2, strike out the salary schedule beginning after line

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(20) See also 111 Cong. Rec. 25663, 89th Cong. 1st Sess., Sept. 30, 1965; 110 Cong. Rec. 20120, 88th Cong. 2d Sess., Aug. 18, 1964; 94 Cong. Rec. 8014, 80th Cong. 2d Sess., June 12, 1948; 93 Cong. Rec. 7845, 80th Cong. 1st Sess., June 27, 1947; and 92 Cong. Rec. 9776, 79th Cong. 2d Sess., July 23, 1946.

(1) 114 Cong. Rec. 10126, 10130, 90th Cong. 2d Sess.

(2) John W. McCormack (Mass.).

> 2 and ending before line 1 on page 4 and insert in lieu thereof the following: . . .

Mr. McMillan (during the reading): Mr. Speaker, I ask unanimous consent to dispense with further reading of the motion to recommit and that it be printed in the Record.

The Speaker: Is there objection to the request of the gentleman from South Carolina?

Mr. [**Joel T.**] **Broyhill** of Virginia: Reserving the right to object, is the amendment the gentleman has offered as a motion to recommit the same amendment which the gentleman offered during the debate on the bill which would reduce the salary structure by $200?

Mr. McMillan: Two hundred dollars across the board.

The Speaker: Is there objection to the request of the gentleman from South Carolina?

There was no objection.

The Speaker: Without objection, the previous question is ordered on the motion to recommit.

§ 28. Offering the Motion; Procedure

Oral or Written Motions

§ 28.1 Motions to recommit must be sent to the Speaker's desk and are required to be in writing.

On June 16, 1949,(3) the House was considering H.R. 4963, providing for the appointment of additional circuit and district judges. After the Speaker, Sam Rayburn, of Texas, announced that the question was on the passage of the bill, Mr. Carl T. Curtis, of Nebraska, offered a motion to recommit:

Mr. Curtis: Mr. Speaker, I offer a motion to recommit.

The Speaker: Is the gentleman opposed to the bill?

Mr. Curtis: I am, Mr. Speaker.

The Speaker: The gentleman qualifies. The Clerk will report the motion.

The Clerk read as follows:

> Mr. Curtis moves to recommit the report back with the Keating amendment. . . .

Mr. [**Emanual**] **Celler** [of New York]: Mr. Speaker, I make a point of order against the motion to recommit that in that form, it is not in order.

The Speaker: The point of order is sustained.

Mr. Curtis: Mr. Speaker, I move that the bill be recommitted and reported back with this amendment:

> That not more than two-thirds of the total number of circuit judges or district judges authorized hereunder first appointed pursuant hereto shall be members of the same political party.

The Speaker: Will the gentleman send the motion to the desk? The motion has to be in writing.(4)

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3. 95 Cong. Rec. 7855, 7856, 81st Cong. 1st Sess.

4. See also 97 Cong. Rec. 12863, 82d Cong. 1st Sess., Oct. 9, 1951.

Form of Instructions

§ 28.2 A motion to recommit a bill with instructions to report it back with the "Keating amendment" (an amendment rejected in the Committee of the Whole) was held not to be in proper form inasmuch as the House has no knowledge of amendments rejected in the Committee of the Whole and not reported therefrom.

On June 16, 1949,(5) the House was considering H.R. 4963, providing for appointment of additional federal judges. The following occurred:

THE SPEAKER:(6) The question is on the passage of the bill.

MR. [CARL T.] CURTIS [of Nebraska]: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER: Is the gentleman opposed to the bill?

MR. CURTIS: I am, Mr. Speaker.

THE SPEAKER: The gentleman qualifies. The Clerk will report the motion.

The Clerk read as follows:

> Mr. Curtis moves to recommit the report back with the Keating amendment.

THE SPEAKER: The House certainly has no knowledge of what the Keating amendment is. That was acted on in the Committee of the Whole. We are in a different jurisdiction now.

Correcting Language

§ 28.3 The use of incorrect language in a motion to recommit is not within the control of the Chair after the previous question has been ordered.

On May 19, 1939,(7) the House was considering H.R. 6392, providing appropriations for the Departments of Justice, State, Commerce, and the Judiciary. Mr. Charles Hawks, Jr., of Wisconsin, was then recognized:

MR. HAWKS: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER:(8) Is the gentleman opposed to the bill?

MR. HAWKS: Yes.

THE SPEAKER: The gentlemen qualifies. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. Hawks moves to recommit the bill to the committee with instructions to report it back forthwith with the following amendment: At the end of the bill insert a new paragraph, as follows:
>
> "No part of the funds appropriated in this bill shall be used for the purpose of purchasing any foreign dairy or other competitive foreign agricultural products which are not produced in the United States in sufficient quantities to meet domestic needs.". . .

MR. THOMAS S. MCMILLAN [of South Carolina]: Mr. Speaker, I move the previous question on the motion to recommit.

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5. 95 CONG. REC. 7855, 7856, 81st Cong. 1st Sess.
6. Sam Rayburn (Tex.).
7. 84 CONG. REC. 5856, 76th Cong. 1st Sess.
8. William B. Bankhead (Ala.).

The previous question was ordered.

Mr. James W. Mott, of Oregon, was then recognized.

Mr. Mott: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Mott: May I inquire whether the apparent inaccuracy or error to which attention was called by the gentleman from South Dakota has been corrected? There was a double negative in there as I heard the amendment read.

The Speaker: That is not a matter within the control of the Chair, the previous question having been ordered.

Mr. [Francis H.] Case of South Dakota: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Case of South Dakota: Mr. Speaker, some of us are under the impression that the wording of the amendment as it is on the Clerk's desk is not in the form in which it was read. May I ask as a parliamentary inquiry whether the amendment upon which we will vote is as it was read to the House or if the words "may not be" are changed to "can"?

The Speaker: There is no amendment pending before the House.

Mr. Case of South Dakota: I refer to the motion to recommit.

The Speaker: The motion to recommit has been reduced to writing and has been read from the Clerk's desk. It speaks for itself.

§ 28.4 A motion that the Committee of the Whole rise and report a bill back to the House with the enacting clause be stricken out and the bill "returned" to a committee with instructions to remove a provision permitting the government to manfacture rum was held not to be in proper form.

On May 5, 1949,[9] the Committee of the Whole was considering H.R. 2989, dealing with the Virgin Islands Corporation. The following occurred:

Mr. [Robert F.] Rich [of Pennsylvania]: Mr. Chairman I offer a preferential motion.

The Clerk read as follows:

> Mr. Rich moves that the Committee now rise and report the bill back to the House with the recommendation that the enacting clause be stricken and the bill be returned to the Committee on Public Lands with instructions to remove the provision permitting the Government to manufacture rum.

The Chairman:[10] The Chair will state that the motion as presented by the gentleman from Pennsylvania is not in proper form for a preferential motion.

Parliamentarian's Note: It is inconsistent to move that the Committee of the Whole recommend to the House both that the enacting clause of a measure be stricken and that the measure be

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[9] 95 Cong. Rec. 5705, 81st Cong. 1st Sess.

[10] Wilbur D. Mills (Ark.).

"returned" (recommitted) to a committee. Concurrence by the House in the former constitutes a rejection of the measure and precludes recommittal. In the event that the House disagrees to the recommendation to strike the enacting clause, recommittal to the Committee of the Whole is automatic. Pending a vote in the House on agreeing to the recommendation to strike the enacting clause, a motion to recommit is in order. Rule XXIII clause 7, *House Rules and Manual* § 875 (1983).

Rereading Motion

§ 28.5 A motion to recommit read by the Clerk may again be read by unanimous consent.

On May 19, 1939,(11) the House was considering H.R. 6392, appropriations for the Departments of Commerce, State, Justice, and for the Judiciary. After the Clerk read a motion to recommit offered by Mr. Charles Hawks, Jr., of Wisconsin, and after the Chair overruled a point of order against the motion, Mr. Francis H. Case, of South Dakota, was recognized.

> MR. CASE of South Dakota: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER:(12) The gentleman will state it.
>
> MR. CASE of South Dakota: May the motion again be read? I think there was an error in it.
>
> THE SPEAKER: It may be read by unanimous consent.
>
> Is there objection to the reading of the motion?
>
> MR. [JOHN] LESINSKI [of Michigan]: Mr. Speaker, I object.

Form for Recommittal of Resolution

§ 28.6 The House considered a motion to recommit a resolution with instructions to a standing committee to hold open hearings thereon.

On Apr. 5, 1967,(13) the House was considering House Resolution 221, providing funds for the Committee on Un-American Activities. Mr. Don Edwards, of California, offered the following motion to recommit:

> Mr. Edwards of California moves to recommit the resolution (H. Res. 221) to the Committee on House Administration with instructions that open hearings be held on justification for such additional funds of the House Committee on Un-American Activities as provided in House Resolution 221.(14)

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11. 84 CONG. REC. 5856, 76th Cong. 1st Sess.
12. William B. Bankhead (Ala.).
13. 113 CONG. REC. 8441, 8442, 90th Cong. 1st Sess.
14. See also 111 CONG. REC. 3664, 3665, 89th Cong. 1st Sess., Feb. 25, 1965.

Form for Recommittal of Conference Report With Instructions

§ 28.7 The House considered a motion recommitting a conference report with instructions to House conferees.

On Sept. 15, 1965,(15) the House was considering the conference report on H.R. 8283, the Economic Opportunity Act Amendments of 1965. Mr. William H. Ayres, of Ohio, offered the following motion to recommit:

> Mr. Ayres moves to recommit the conference report on the bill (H.R. 8283) to the committee of conference with instructions to the managers on the part of the House insist on the language of section 10 of the House bill, which retains the veto power of State Governors in the form approved by the House.(16)

Form of Motion to Recommit Bill With Instructions

§ 28.8 The House considered a motion to recommit a bill with instructions that the committee not report back to the House until certain information is available to it.

On Mar. 5, 1970,(17) the House was considering S. 2910, additional authorization for the Library of Congress James Madison Memorial Building. Mr. Marion G. Snyder, of Kentucky, offered a motion to recommit:

> Mr. Snyder moves to recommit the bill S. 2910 to the Committee on Public Works with the instruction that it not be reported back to the House until all necessary designs, plans, and specifications have been completed.

Reporting Amendment to House Pursuant to Instructions

§ 28.9 An amendment is immediately reported to the House pursuant to a motion to recommit with instructions to report back "forthwith" with an amendment.

On Apr. 1, 1948,(18) the House was considering H.R. 6055, the deficiency appropriation bill of 1948. After the engrossed copy of the bill was read and the Speaker, Joseph W. Martin, Jr., of Massachusetts, announced that the question was on the passage of the bill, Mr. Clarence Cannon, of Missouri, offered the following motion to recommit:

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15. 111 Cong. Rec. 23928, 23931, 23936, 89th Cong. 1st Sess.
16. See also 109 Cong. Rec. 8037, 8043, 88th Cong. 1st Sess., May 8, 1963; and 97 Cong. Rec. 8064, 8071, 8072, 82d Cong. 1st Sess., July 12, 1951.
17. 116 Cong. Rec. 6191, 91st Cong. 2d Sess.
18. 94 Cong. Rec. 3994, 80th Cong. 2d Sess.

> Mr. Cannon moves to recommit the bill to the Committee on Appropriations with instructions to report the bill back forthwith with an amendment as follows:
>
> On page 10, line 7, strike out "$300,000,000" and insert in lieu thereof "$400,000,000."

After the Clerk announced the vote adopting the motion offered by Mr. Cannon, the Chair recognized Mr. John Taber, of New York.

> **Mr. Taber:** Mr. Speaker, in accordance with the instructions of the House, I report the bill back with an amendment which is at the desk.
>
> **The Speaker:** The Clerk will read the amendment.
>
> The Clerk read as follows:
>
> Page 10, line 7, strike out "$300,000,000" and insert in lieu thereof "$400,000,000."
>
> **The Speaker:** The question is on the amendment.
>
> The amendment was agreed to.
>
> The bill was ordered to be engrossed and read a third time and was read the third time.
>
> **The Speaker:** The question is on the passage of the bill.(19)

§ 29. Time for Motion

After Engrossment and Third Reading

§ 29.1 The motion to recommit is not in order until the bill has been engrossed and read a third time.

On June 12, 1961,(20) the House was considering H.R. 7053, relating to the admission of certain evidence in the courts of the District of Columbia. Mr. Abraham J. Multer, of New York, rose with a parliamentary inquiry:

> **Mr. Multer:** Mr. Speaker, at what point is a motion to recommit in order?
>
> **The Speaker Pro Tempore:**(1) Prior to the passage of the bill and after the third reading.(2)

§ 29.2 Further consideration of a general appropriation bill having been postponed to a day certain by unanimous consent following engrossment and third reading of the bill, a motion to recommit the bill is in order when consideration resumes on the subsequent day.

On Apr. 17, 1973,(3) the House having considered H.R. 6691,

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19. See also 108 Cong. Rec. 16781, 87th Cong. 2d Sess., Aug. 16, 1962; and 94 Cong. Rec. 448–450, 80th Cong. 2d Sess., Jan. 22, 1948.

20. 107 Cong. Rec. 10080, 87th Cong. 1st Sess.

1. W. Homer Thornberry (Tex.).

2. See also 105 Cong. Rec. 10561, 86th Cong. 1st Sess., June 11, 1959; 96 Cong. Rec. 2254, 81st Cong. 2d Sess., Feb. 22, 1950; and 84 Cong. Rec. 5535, 5536, 76th Cong. 1st Sess., May 15, 1939.

3. 119 Cong. Rec. 12792, 93d Cong. 1st Sess.

making appropriations for the legislative branch for fiscal 1974, ordered that the bill be engrossed and read a third time, and then postponed further consideration thereof until the next day. On Apr. 18,(4) the Speaker(5) made the following statement:

> The unfinished business is the question on the passage of the bill (H.R. 6691) making appropriations for the legislative branch for the fiscal year ending June 30, 1974, and for the other purposes.
>
> The Clerk read the title of the bill.
>
> Mr. [Alphonzo] Bell [of California]: Mr. Speaker, I offer a motion to recommit.
>
> The Speaker: Is the gentleman opposed to the bill?
>
> Mr. Bell: I am, Mr. Speaker.
>
> The Speaker: The Clerk will report the motion to recommit.

Pending Concurrence With Recommendation That Enacting Clause Be Stricken

§ 29.3 Whenever a bill is reported to the House by the Committee of the Whole with the recommendation that the enacting clause be stricken out, pending the question of concurrence, a motion to recommit the bill to a committee is in order.

On Mar. 24, 1949,(6) the Committee of the Whole having had under consideration H.R. 2681, to provide pensions for the veterans of World War I and World War II, reported the bill back to the House with the recommendation that the enacting clause be stricken out. As the Speaker pro tempore, John W. McCormack, of Massachusetts, stated that the question would be on that recommendation, Mr. Olin Teague, of Texas, and Mr. John E. Rankin, of Mississippi, both members of the majority party, rose:

> The Speaker Pro Tempore: The question is on the recommendation of the Committee of the Whole House on the State of the Union that the enacting clause be stricken out.
>
> Mr. Teague rose.
>
> The Speaker Pro Tempore: For what purpose does the gentleman from Texas rise?
>
> Mr. Rankin: Mr. Speaker, a point of order.
>
> The Speaker Pro Tempore: The gentleman will state it.
>
> Mr. Rankin: I make the point of order that, according to the rules of the House, the vote comes now on the motion to strike out the enacting clause. I looked into the matter carefully last night.
>
> The Speaker Pro Tempore: In this particular legislative situation the

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[4] *Id.* at p. 13079.

[5] Carl Albert (Okla.).

[6] 95 Cong. Rec. 3110-15, 81st Cong. 1st Sess.

motion to recommit is in order under clause 7 of rule 23.

The Chair recognizes the gentleman from Texas [Mr. Teague]. . . .

Mr. Teague: Mr. Speaker, I offer a motion to recommit.

Mr. Rankin: Mr. Speaker, a point of order.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Rankin: The gentleman from Texas to qualify to offer a motion to recommit must announce that he is opposed to the bill.

The Speaker Pro Tempore: Is the gentleman from Texas opposed to the bill?

Mr. Teague: Mr. Speaker, I am opposed to the bill as now written.

The Speaker Pro Tempore: The gentleman qualifies. The Clerk will report the motion to recommit.

After Ordering of Previous Question

§ 29.4 A motion to recommit a resolution is properly made after the previous question on that resolution is ordered.

On Sept. 17, 1965,(7) the House was considering House Resolution 585, dismissing five Mississippi election contests. After the previous question was ordered, the Speaker, John W. McCormack, of Massachusetts, stated that the question would be on the resolution as amended. Mr. Charles S. Gubser, of California, rose with a parliamentary inquiry:

Mr. Gubser: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Gubser: Mr. Speaker, I intend to offer a motion to recommit. Will the Chair please advise when that will be in order?

The Speaker: Is the gentleman opposed to the resolution?

Mr. Gubser: I am, Mr. Speaker.

The Speaker: The Chair will advise the gentleman now is the appropriate time.

After Yeas and Nays Ordered

§ 29.5 Where the yeas and nays had been ordered on the passage of a bill, it was held to be too late to offer a motion to recommit.

On June 27, 1935,(8) the House was considering H.R. 8555, the merchant marine bill. Speaker Joseph W. Byrns, of Tennessee, put the question on the passage of the bill, and the following occurred:

Mr. [William D.] McFarlane [of Texas]: Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The Clerk proceeded to call the roll.

Mr. [Ralph O.] Brewster [of Maine]: Mr. Speaker——

The Speaker: For what purpose does the gentleman from Maine rise?

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7. 111 Cong. Rec. 24291, 89th Cong. 1st Sess.

8. 79 Cong. Rec. 10288, 10289, 74th Cong. 1st Sess.

Mr. Brewster: To propound a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Brewster: Mr. Speaker, it was my intention to offer a motion to recommit.

Mr. [Thomas L.] Blanton [of Texas]: Mr. Speaker, I rise to a point of order. The Clerk had already begun the calling of the roll and had called the first name, "Allen." I make the point of order the gentleman from Maine cannot interrupt the roll call.

The Speaker: The Chair overrules the point of order. The gentleman from Maine is entitled to propound a legitimate parliamentary inquiry, and the Chair presumes that the inquiry propounded is a proper one. The gentleman from Maine will state his parliamentary inquiry.

Mr. Brewster: Mr. Speaker, do I understand that a motion to recommit cannot be submitted at this stage?

The Speaker: Such a motion is not in order at this time.

After Announcing Result of Vote

§ 29.6 A motion to recommit comes too late when the Chair has put the question on passage and has announced the apparent result of the vote.

On Dec. 11, 1969,(9) the House was considering H.R. 4249, extending portions of the Voting Rights Act of 1965.

The Speaker:(10) The question is on the passage of the bill.

The question was taken, and the Speaker announced that the ayes appeared to have it.

Mr. [Don] Edwards of California: Mr. Speaker, a parliamentary inquiry: has a motion to recommit been made?

The Speaker: The Chair will state that a motion to recommit comes too late at this stage. The Chair has already put the question on the passage of the bill and announced that the ayes appeared to have it.

Recommittal of Conference Report

§ 29.7 A motion to recommit a conference report is not in order unless the previous question has been ordered on the conference report.

On Dec. 15, 1970,(11) the House was considering H.R. 17755, Department of Transportation appropriations for fiscal 1971. Pending the ordering of the previous question on the conference report on H.R. 17755, Mr. Sidney Yates, of Illinois, was recognized.

Mr. Yates: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore:(12) The gentleman will state his parliamentary inquiry.

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9. 115 Cong. Rec. 38536, 38537, 91st Cong. 1st Sess.

10. John W. McCormack (Mass.).

11. 116 Cong. Rec. 41502, 41503, 91st Cong. 2d Sess.

12. Wilbur D. Mills (Ark.).

Mr. Yates: Mr. Speaker, as I understand, in order to have specific instructions given to the conferees it is necessary that the previous question be voted down; is that correct? I mean on the motion to recommit?

The Speaker Pro Tempore: The Chair will state that the gentleman from Illinois is in error. The previous question on the conference report has to be ordered before there can be a motion to recommit.(13)

§ 29.8 A motion to recommit a conference report is not in order when the other House has, by acting on the report, discharged its managers.

On June 5, 1968,(14) the House was considering the conference report on H.R. 11308, amending the National Foundation of Arts and Humanities Act of 1965.

Mr. [Frank] Thompson of New Jersey: Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

Mr. [William J.] Scherle [of Iowa]: Mr. Speaker, I offer a motion to recommit.

Mr. Thompson of New Jersey: Mr. Speaker, a point of order.

The Speaker Pro Tempore:(15) The gentleman will state the point of order.

Mr. Thompson of New Jersey: Mr. Speaker, I make a point of order against the motion to recommit on the ground that the other body has already acted.

The Speaker Pro Tempore: The point of order is sustained.(16)

§ 30. Debating the Motion

Time for Debate

§ 30.1 Pursuant to Rule XVI clause 4, five minutes of debate in favor of and five minutes in opposition to a motion to recommit with instructions are in order notwithstanding the ordering of the previous question on a bill or joint resolution to final passage.

On July 19, 1973,(17) the House was considering H.R. 8860, to amend and extend the Agricultural Act of 1970. After the previous question was ordered on the bill, Mr. Charles M. Teague, of California, was recognized:

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13. See also 111 Cong. Rec. 25663, 89th Cong. 1st Sess., Sept. 30, 1965; 109 Cong. Rec. 25409, 88th Cong. 1st Sess., Dec. 21, 1963; and 101 Cong. Rec. 9379, 84th Cong. 1st Sess., June 29, 1955.
14. 114 Cong. Rec. 16058, 90th Cong. 2d Sess.
15. Carl Albert (Okla.).
16. See also 109th Cong. Rec. 25249, 88th Cong. 1st Sess., Dec. 19, 1963; 107 Cong. Rec. 5288, 87th Cong. 1st Sess., Mar. 29, 1961; 102 Cong. Rec. 13755, 13764, 84th Cong. 2d Sess., July 20, 1956; and 89 Cong. Rec. 7135, 78th Cong. 1st Sess., July 3, 1943.
17. 119 Cong. Rec. 24966, 93d Cong. 1st Sess.

Mr. Teague of California: Mr. Speaker I offer a motion to recommit.

The Speaker:(18) Is the gentleman opposed to the bill?

Mr. Teague of California: I am, Mr. Speaker.

The Speaker: The Clerk will report the motion to recommit. . . .

Under the rule the gentleman from California is recognized for 5 minutes. . . .

Does the gentleman from Texas desire to rise in opposition to the motion to recommit?

Mr. [William R.] Poage [of Texas]: I do, Mr. Speaker.(19)

Parliamentarian's Note: Rule XVI clause 4 was amended by the Legislative Reorganization Act of 1970 [84 Stat. 1140, Pub. L. No. 91-510, § 123 (Oct. 26, 1970)] to provide that 10 minutes of debate shall always be in order on a motion to recommit with instructions after the previous question is ordered on the passage of a bill or joint resolution. This change became effective on Jan. 22, 1971 (H. Res. 5, 92d Cong. 1st Sess.).

Yielding to Another Member After Debate

§ 30.2 The Member offering a motion to recommit a bill with instructions may, at the conclusion of debate thereon, yield to another Member to offer an amendment to the motion if the previous question has not been ordered on that motion.

On July 19, 1973,(20) Mr. Charles M. Teague, of California, offered a motion to recommit the bill H.R. 8860, to amend and extend the Agricultural Act of 1970. After Mr. Teague had debated his motion for five minutes, William R. Poage, of Texas, the chairman of the committee that reported the bill, was recognized in opposition to the motion to recommit.

The Speaker:(1) Does the gentleman from Texas desire to rise in opposition to the motion to recommit?

Mr. Poage: I do, Mr. Speaker.

Mr. Gerald R. Ford [of Michigan]: Mr. Speaker, will the distinguished chairman of the committee yield for an amendment to the motion to recommit?

Mr. Poage: Certainly I will yield, but I would like to hear the amendment.

The Speaker: The gentleman is not in order. The gentleman from California (Mr. Teague) has control of the motion to recommit and can yield for that purpose if he desires to do so.

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18. Carl Albert (Okla.).
19. See also 119 Cong. Rec. 13079, 93d Cong. 1st Sess., Apr. 18, 1973; 118 Cong. Rec. 3451-53, 92d Cong. 2d Sess., Feb. 9, 1972; and 117 Cong. Rec. 34345-47, 92d Cong. 1st Sess., Sept. 30, 1971.
20. 119 Cong. Rec. 24966, 24967, 93d Cong. 1st. Sess.
1. Carl Albert (Okla.).

The gentleman from Texas now has the floor.

Mr. Poage: Mr. Speaker, I will not yield for a pig in a poke. I want to know what the gentleman is proposing.

The Speaker: The gentleman cannot yield for that purpose. The gentleman from California can yield for that purpose. . . .

The time of the gentleman from Texas has expired.

Mr. [Wayne L.] Hays [of Ohio]: Mr. Speaker, a point of order.

The Speaker: The gentleman will state it.

Mr. Hays: Mr. Speaker, my point of order is that I do not believe the gentleman from California can yield for this purpose without getting unanimous consent.

The Speaker: The gentleman can yield for the purpose of an amendment, since he has the floor.

Mr. Teague of California: Mr. Speaker, I yield to the distinguished minority leader for the purpose of offering an amendment.

Mr. Gerald R. Ford: Mr. Speaker, I offer an amendment to the motion to recommit.

Mr. [John E.] Moss [of California]: Mr. Speaker, a point of order.

The Speaker: The gentleman will state it.

Mr. Moss: Mr. Speaker, my point of order is that the time of the gentleman from California had expired.

The Speaker: That does not keep him from yielding.

Mr. Moss: He has not got the floor.

The Speaker: The gentleman from California has the right to yield for an amendment, since he still has the floor as the previous question has not been ordered on the motion to recommit.

Challenging Motion After Debate

§ 30.3 A point of order that a motion to recommit a bill with instructions is not germane to the bill comes too late after the proponent of the motion has been recognized for five minutes of debate and has yielded for a parliamentary inquiry.

On June 2, 1971,(2) the House was considering H.R. 3613, the Public Service Employment Act. Speaker Carl Albert, of Oklahoma, then recognized Mr. Marvin L. Esch, of Michigan.

Mr. Esch: Mr. Speaker, I offer a motion to recommit.

The Speaker: Is the gentleman opposed to the bill?

Mr. Esch: I am, in its present form, Mr. Speaker.

The Speaker: The Clerk will report the motion to recommit.

The Clerk then read Mr. Esch's motion to recommit the bill with instructions to report it back forthwith with an amendment.

The Speaker: The gentleman from Michigan (Mr. Esch) is recognized for 5 minutes.

Mr. [James. G.] O'Hara [of Michigan]: Mr. Speaker, a parliamentary inquiry.

The Speaker: Does the gentleman from Michigan yield for a parliamentary inquiry?

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2. 117 Cong. Rec. 17491–95, 92d Cong. 1st Sess.

MR. ESCH: I yield to the gentleman from Michigan for a parliamentary inquiry.

MR. O'HARA: Mr. Speaker, I would like to inquire if this is the exact text of H.R. 8141 that was made in order by the amendment to the rule.

MR. ESCH: The gentleman is correct.

MR. O'HARA: Then I would like to inquire of the Speaker, if the fact that an amendment was made in order, a particular amendment otherwise not germane, was made in order under the 5-minute rule, by provisions of the resolution from the Committee on Rules, would that make the same nongermane amendment in order as a motion to recommit with instructions?

THE SPEAKER: The gentleman from Michigan (Mr. Esch) has been recognized on his motion to recommit with instructions. Any challenge to the motion would now come too late.

The gentleman from Michigan (Mr. Esch) may continue to debate his motion to recommit with instructions.

Rights of Member Recognized in Opposition

§ 30.4 A Member recognized for five minutes in opposition to a motion to recommit with instructions controls the floor for debate only, and may not yield to another Member to offer an amendment to the motion to recommit.

On July 19, 1973,(3) Mr. Charles M. Teague, of California, had offered a motion to recommit the bill H.R. 8860, to amend and extend the Agricultural Act of 1970, to the Committee on Agriculture. After five minutes of debate, the Speaker, Carl Albert, of Oklahoma, addressed William R. Poage, of Texas, Chairman of the Committee on Agriculture:

THE SPEAKER: Does the gentleman from Texas desire to rise in opposition to the motion to recommit?

MR. POAGE: I do, Mr. Speaker. . . .

MR. GERALD R. FORD [of Michigan]: Mr. Speaker, will the distinguished chairman of the committee yield for an amendment to the motion to recommit?

MR. POAGE: Certainly I will yield, but I would like to hear the amendment.

THE SPEAKER: The gentleman is not in order. The gentleman from California (Mr. Teague) has control of the motion to recommit and can yield for that purpose if he desires to do so.

The gentleman from Texas now has the floor.

MR. POAGE: Mr. Speaker, I will not yield for a pig in a poke. I want to know what the gentleman is proposing.

THE SPEAKER: The gentleman cannot yield for that purpose. The gentleman from California [Mr. Teague] can yield for that purpose. . . .

The time of the gentleman from Texas has expired.

Debate on Recommittal of Simple Resolution

§ 30.5 The provisions of Rule XVI clause 4, which make in order

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3. 119 CONG. REC. 24967, 93d Cong. 1st Sess.

10 minutes of debate on a motion to recommit with instructions, after the previous question has been ordered on a measure, apply only to bills and joint resolutions; debate is not in order on a motion under Rule XVII clause 1, to recommit a simple resolution with instructions after the previous question has been ordered.

On Nov. 15, 1973,(4) the House was considering House Resolution 702, providing additional funds for investigations by the Committee on the Judiciary. After the previous question was ordered on the resolution, Mr. William L. Dickinson, of Alabama, was recognized:

Mr. Dickinson: Mr. Speaker, I offer a motion to recommit.

The Speaker:(5) Is the gentleman opposed to the resolution?

Mr. Dickinson: I am, Mr. Speaker.

The Speaker: The Clerk will report the motion to recommit.

After the Clerk read the motion to recommit, the Speaker stated:

Without objection, the previous question is ordered on the motion to recommit.

Mr. Dickinson: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. Dickinson: Mr. Speaker, am I not entitled to five minutes as the member offering this motion to recommit?

The Speaker: The Chair will advise the gentleman that that procedure is not applicable on a motion to recommit a simple resolution.

Mr. Dickinson: Mr. Speaker, is that also true when there are instructions in the motion to recommit?

The Speaker: The Chair will advise the gentleman that the procedure permitting 10 minutes of debate on a motion to recommit with instructions only applies to bills and joint resolutions.

Motion to Recommit Conference Report With Instructions

§ 30.6 When the previous question on agreeing to a conference report has been ordered, a motion to recommit is not debatable.

On Sept. 27 (a continuation of the legislative day of Sept. 25), 1961,(6) the House had just ordered the previous question on the conference report on H.R. 9169, providing supplemental appropriations for fiscal 1962. Mr. Silvio O. Conte, of Massachusetts, was recognized and offered a motion to recommit the conference report with instructions that the House conferees insist on their disagreement to a particular Senate amendment. After the Clerk re-

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4. 119 Cong. Rec. 37150, 93d Cong. 1st Sess.
5. Carl Albert (Okla.).
6. 107 Cong. Rec. 21524, 87th Cong. 1st Sess.

ported the motion the following occurred:

> Mr. Conte: Mr. Speaker, a parliamentary inquiry.
>
> The Speaker Pro Tempore:[7] The gentleman will state it.
>
> Mr. Conte: Is the motion debatable?
>
> The Speaker Pro Tempore: It is not debatable.

§ 31. As Related to Other Motions; Precedence

Previous Question

§ 31.1 The motion for the previous question on a motion to recommit takes precedence over an amendment to the motion to recommit.

On Aug. 11, 1969,[8] the House was considering H.R. 12982, the District of Columbia Revenue Act of 1969. After Mr. Alvin E. O'Konski, of Wisconsin, offered a motion to recommit the bill, Mr. Brock Adams, of Washington, was recognized:

> Mr. Adams: Mr. Speaker, I have an amendment to the motion to recommit.
>
> Mr. [John L.] McMillan [of South Carolina]: Mr. Speaker, I move the previous question on the the motion to recommit.
>
> The Speaker:[9] The question is on ordering the previous question on the motion to recommit.[10]

Motion to Recommit With Instructions and "Straight" Motions

§ 31.2 A motion to recommit with instructions does not take precedence over a straight motion to recommit, both motions being on an equal footing.

On Mar. 29, 1954,[11] the House was considering House Resolution 468, relating to expenses incurred in conducting investigations authorized by the rules of the House. The Speaker, Joseph W. Martin, Jr., of Massachusetts, then recognized Mr. Augustine B. Kelley, of Pennsylvania:

> Mr. Kelley of Pennsylvania: Mr Speaker, I offer a motion to recommit.
>
> The Speaker: Is the gentleman opposed to the resolution?
>
> Mr. Kelley of Pennsylvania: I am, Mr. Speaker.
>
> Mr. [Clare E.] Hoffman of Michigan: Mr. Speaker, I have a motion to recommit with instructions.
>
> The Speaker: The Chair is obliged to say that, by reason of a time-honored custom, the motion to recommit belongs to the minority party if they claim the privilege, and in this instance they have claimed it. Therefore,

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[7] John W. McCormack (Mass.).

[8] 115 Cong. Rec. 23143, 91st Cong. 1st Sess.

[9] John W. McCormack (Mass.).

[10] See also 91 Cong. Rec. 2739, 79th Cong. 1st Sess., Mar. 24, 1945.

[11] 100 Cong. Rec. 3962–67, 83d Cong. 2d Sess.

the Chair is constrained to recognize the gentleman from Pennsylvania [Mr. Kelley], for that purpose.

Mr. Hoffman of Michigan: Mr. Speaker, does not a motion to recommit with instructions take precedence over a straight motion to recommit?

The Speaker: It does not. All motions to recommit are on an equal footing.

§ 32. Motions to Recommit With Instructions

Precedence

§ 32.1 The motion to recommit with instructions does not take precedence over a straight motion to recommit.

On Nov. 25, 1970,(12) the House was considering H.R. 19504, the Federal Aid Highway Act. Both Mr. Frederick Schwengel, of Iowa, and Mr. Joel T. Broyhill, of Virginia, sought to offer motions to recommit. Mr. Brock Adams, of Washington, was then recognized to propound a parliamentary inquiry.

> **Mr. Adams**: Mr. Speaker, would a specific motion to recommit with instructions have priority over a general motion to recommit? Did the gentleman from Virginia announce that his motion was a general motion to recommit?
>
> It is my understanding that the motion to recommit by the gentleman from Iowa is a motion to recommit with instructions and, therefore, has priority.
>
> **The Speaker**:(13) The Chair will state in response to the parliamentary inquiry that a motion to recommit with instructions does not have priority.
>
> **Mr. Adams**: Mr. Speaker, a further parliamentary inquiry.
>
> It is my understanding that under the rules, a motion to recommit with instructions is a motion that, if not described by the word "priority" is entitled to prior recognition by the Chair because a motion with specific instructions is entitled to recognition over a general motion to recommit.
>
> **The Speaker**: The Chair will state that a motion to recommit with instructions does not have priority over a straight motion to recommit.

Amendment to Motion to Recommit

§ 32.2 A motion to recommit with instructions is subject to amendment if the previous question is voted down.

On Oct. 3, 1969,(14) the House was considering H.R. 14000, the military procurement authorizations for fiscal year 1970. After Mr. Alvin E. O'Konski, of Wisconsin, moved to recommit the bill to the Committee on Armed Services

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12. 116 Cong. Rec. 38997, 91st Cong. 2d Sess.
13. John W. McCormack (Mass.).
14. 115 Cong. Rec. 28487, 28488, 91st Cong. 1st Sess.

with certain instructions, Mr. Donald M. Fraser, of Minnesota, rose to his feet:

> Mr. Fraser: Mr. Speaker, in order to be able to amend the pending motion to recommit, is it necessary that the previous question be voted down?
>
> The Speaker:(15) The Chair will state the answer to the question is "yes."(16)

§ 32.3 Parliamentarian's Note: The House may reject the previous question on a straight motion to recommit, and then amend the motion to include instructions to reinsert in the bill any germane amendment, including amendments adopted in the Committee of the Whole but rejected in the House.

§ 32.4 If the previous question is voted down on a motion to recommit, a Member offering an amendment to the motion does not necessarily have to qualify as being opposed to the bill.

On June 26, 1968,(17) the House was considering H.R. 18037, appropriations for Labor and HEW for fiscal 1969. Mr. Robert H. Michel, of Illinois, offered a motion to recommit the bill to the Committee on Appropriations with certain instructions. Mr. Michel then propounded a parliamentary inquiry:

> Mr. Michel: Is it not also true that for one to qualify to amend a motion to recommit, one would also have to be opposed to the bill?
>
> The Speaker:(18) At that stage, should it develop, not necessarily.

§ 32.5 An amendment incorporated in a motion to recommit with instructions must be germane to the bill to which the amendment is proposed.

On June 18, 1957,(19) the House was considering H.R. 6127, to provide the means of further securing and protecting the civil rights of persons within the United States. Mr. Richard H. Poff, of Virginia, offered a motion to recommit the bill to the Committee on the Judiciary with certain instructions, and Mr. Kenneth B. Keating, of New York, rose with a point of order:

> Mr. Keating: Mr. Speaker, I make the point of order that the wording of the motion to recommit is not germane to the bill. We have already debated the germaneness of the wording of this motion in Committee of the Whole. But, I have this additional observation to make, which was not made, as I recall, during the debate, namely, that

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15. John W. McCormack (Mass.).
16. See also 114 Cong. Rec. 12262, 12263, 90th Cong. 2d Sess., May 8, 1968.
17. 114 Cong. Rec. 18940, 18941, 90th Cong. 2d Sess.
18. John W. McCormack (Mass.).
19. 103 Cong. Rec. 9516, 9517, 85th Cong. 1st Sess.

this proposed amendment is to the act, where as it is inserted as an amendment to a section of the act. It is sought to insert this in part III of the bill only at page 10, line 5, but it purports to be an amendment to the entire act. We had a similar situation presented in the Committee in the consideration of this matter and the Chair ruled in Committee that because the wording was an amendment to the section, but was worded as an amendment to the act, that it was not germane. I urge that if the amendment were to the act, as it purports to be, it would have to be at some other point in the bill and could not be an amendment to the act in the middle of one of the sections of the act.

THE SPEAKER:(20) The Chair is ready to rule.

This same question was raised in the Committee of the Whole on the same amendment. The very capable gentleman from Rhode Island [Mr. Forand], Chairman of the Committee of the Whole, overruled the point of order after having heard all the debate. The present occupant of the Chair, having read all of the debate and having heard most of it, reaffirms the decision of the Chairman of the Committee of the Whole in the consideration of the bill and, therefore, overrules the point of order.

§ 32.6 The Speaker indicated that an amendment accompanying a motion to recommit a bill would have to follow the form of the bill as reflected by the engrossed copy.

On Mar. 22, 1949,(1) the House was considering H.R. 1437, the Army and Air Force Act of 1949. Mr. Carl Vinson, of Georgia, asked unanimous consent that the third reading of the bill be dispensed with, when Mr. Vito Marcantonio, of New York, reserving the right to object, rose with a parliamentary inquiry:

> MR. MARCANTONIO: Mr. Speaker, if the pending unanimous-consent request is granted and a motion to recommit is offered with an amendment, does the amendment have to follow the lines of the engrossed copy?
>
> THE SPEAKER:(2) It should. Is there objection to the request of the gentleman from Georgia?
>
> There was no objection.

§ 32.7 An amendment in the form of a limitation to an appropriations bill, contained in a motion to recommit with instructions, providing that no funds were to be used for the purchase of certain foreign agricultural products, was held in order under Rule XXI clause 2.

On May 19, 1939,(3) the House was considering H.R. 6392, state, justice, judiciary, and commerce appropriations for 1940. Mr. Charles Hawks, Jr., of Wisconsin, offered the following motion to recommit:

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(20) Sam Rayburn (Tex.).

(1) 95 CONG. REC. 2936, 81st Cong. 1st Sess.

(2) Sam Rayburn (Tex.).

(3) 84 CONG. REC. 5856, 76th Cong. 1st Sess.

> Mr. Hawks moves to recommit the bill to the committee with instructions to report it back forthwith with the following amendment: At the end of the bill insert a new paragraph, as follows:
>
> > No part of the funds appropriated in this bill shall be used for the purpose of purchasing any foreign dairy or other competitive foreign agricultural products. . . .
>
> MR. THOMAS S. MCMILLAN [of South Carolina]: Mr. Speaker, I make a point of order against the motion to recommit.
>
> THE SPEAKER:(4) The gentleman will state the point of order.
>
> MR. THOMAS S. MCMILLAN: Mr. Speaker, I make the point of order that the motion to recommit is not in order in that it is an attempt to place legislation in an appropriation bill.
>
> MR. [JOSEPH W.] MARTIN [Jr.] of Massachusetts: Mr. Speaker, it is a limitation on appropriations.
>
> THE SPEAKER: The Chair is ready to rule on the point of order made by the gentleman from South Carolina.
>
> The point of order has been made that the motion to recommit is not in order because of the fact that it sets up matters of legislation in an appropriation bill. The Chair has tried carefully to read the provisions of the motion. On a fair reading and construction of the whole motion it appears that there is nothing affirmative in the motion in the way of legislation. It appears to the Chair on the whole to be a restriction or a limitation upon the expenditure of funds.

§ 32.8 A motion to recommit a bill reported by the Committee on House Administration, making unlawful the requirement of the payment of a poll tax, with instructions to report it back in the form of a joint resolution amending the Constitution to accomplish the purpose of the bill was held not germane inasmuch as a constitutional amendment involving the question would lie within the jurisdiction of the Committee on the Judiciary.

On July 26, 1949,(5) the House was considering H.R. 3199, the antipoll tax bill. After the bill was read for a period of time, Mr. Robert Hale, of Maine, offered a motion to recommit:

> The Clerk read as follows:
>
> > Mr. Hale moves to recommit the bill H.R. 3199 to the Committee on House Administration with directions that they report the legislation back to the House in the form of a joint resolution amending the Constitution to make illegal payment of poll taxes as a qualification of voting. . . .
>
> MR. [VITO] MARCANTONIO [of New York]: I make the point of order that the language which is carried in the

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4. William B. Bankhead (Ala.).

5. 95 CONG. REC. 10247, 81st Cong. 1st Sess.

motion to recommit is not germane to the bill. The motion calls for a constitutional amendment.

The Speaker:(6) The Chair is inclined to agree with the gentleman for the simple reason that a constitutional amendment involving this question would lie within the jurisdiction of the Committee on the Judiciary and not within the Committee on House Administration. The Chair sustains the point of order.

Timeliness of Point of Order

§ 32.9 A point of order that a motion to recommit with instructions is not germane to the bill comes too late after the proponent of the motion has been recognized for five minutes of debate in the House, and has yielded for a parliamentary inquiry.

On June 2, 1971,(7) the House was considering H.R. 3613, a manpower and revenue-sharing bill. Mr. Marvin L. Esch, of Michigan, offered a motion to recommit the bill to the Committee on Education and Labor with certain instructions, and was recognized for five minutes of debate thereon. At this point, Mr. James G. O'Hara, of Michigan, interrupted Mr. Esch with a parliamentary inquiry:

Mr. O'Hara: Then I would like to inquire of the Speaker, if the fact that an amendment was made in order, a particular amendment otherwise not germane, was made in order under the 5-minute rule, by provisions of the resolution from the Committee on Rules, would that make the same non-germane amendment in order as a motion to recommit with instructions?

The Speaker:(8) The gentleman from Michigan (Mr. Esch) has been recognized on his motion to recommit with instructions. Any challenge to the motion would now come too late.

The gentleman from Michigan (Mr. Esch) may continue to debate his motion to recommit with instructions.

Instructions to House Committees

§ 32.10 The House may, through use of the motion to recommit, instruct one of its committees to take certain actions.

On Aug. 22, 1966,(9) the House was considering H.R. 16340, prohibiting picketing within 500 feet of any church in the District of Columbia. Mr. Don Edwards, of California, offered a motion to recommit:

The Speaker Pro Tempore:(10) The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. Edwards of California moves to recommit H.R. 16340 to the District of Columbia Committee with instructions to hold public hearings

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6. Sam Rayburn (Tex.).
7. 117 Cong. Rec. 17491-95, 92d Cong. 1st Sess.
8. Carl Albert (Okla.).
9. 112 Cong. Rec. 20119, 89th Cong. 2d Sess.
10. Carl Albert (Okla.).

and to request a report of the Department of Justice and the testimony of the Attorney General.

THE SPEAKER PRO TEMPORE: Without objection, the previous question is ordered.

MR. [WAYNE L.] HAYS [of Ohio]: Mr. Speaker, I make a point of order against the motion to recommit. We cannot tell a committee who to call as witnesses and what kind of hearings to hold.

THE SPEAKER PRO TEMPORE: The House has authority to instruct the committee. The motion is in order.(11)

§ 32.11 The House rejected a motion to recommit a resolution of the Committee on Un-American Activities to a select committee with instructions to examine the sufficiency of the contempt citation and report back to the House.

On Oct. 18, 1966,(12) the House was considering House Resolution 1060, relating to the refusal of Milton M. Cohen to testify before the Committee on Un-American Activities. Mr. Silvio O. Conte, of Massachusetts, offered a motion to recommit.

THE SPEAKER:(13) The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. Conte moves to recommit the resolution of the Committee on Un-American Activities to a select committee of seven Members to be appointed by the Speaker with instructions to examine the sufficiency of the contempt citations under existing rules of law and relevant judicial decisions and thereafter to report it back to the House, while Congress is in session, or, when Congress is not in session, to the Speaker of the House, with a statement of its findings.

THE SPEAKER: Without objection, the previous question is ordered on the motion to recommit. . . .

The question was taken; and there were—yeas 90, nays 181, not voting 161.(14)

Conditional Instructions

§ 32.12 A motion to recommit a bill to the Committee on Public Works, with instructions not to report back to the House until final plans for construction became available, was rejected by the House.

On Mar. 5, 1970,(15) the House was considering S. 2910, providing additional authorization for the Madison Memorial building. The Speaker, John W. McCormack, of

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11. See also 116 CONG. REC. 28036, 91st Cong. 2d Sess., Aug. 10, 1970; and 114 CONG. REC. 6270, 6275, 6276, 90th Cong. 2d Sess., Mar. 13, 1968.
12. 112 CONG. REC. 27484, 89th Cong. 2d Sess.
13. John W. McCormack (Mass.).
14. See also 112 CONG. REC. 1742–63, 89th Cong. 2d Sess., Feb. 2, 1966; H. Rept. No. 1241 and H. Res. 699, contempt proceedings against Robert M. Shelton of the Ku Klux Klan.
15. 116 CONG. REC. 6191, 91st Cong. 2d Sess.

Massachusetts, recognized Mr. Marion G. Snyder, of Kentucky, to offer a motion to recommit:

> The Clerk read as follows:
>
> Mr. Snyder moves to recommit the bill S. 2910 to the Committee on Public Works with the instruction that it not be reported back to the House until all necessary designs, plans, and specifications have been completed. . . .
>
> The question was taken; and there were—yeas 149, nays 197, answered "present" 1, not voting 83.

Rulings as to Propriety of Motion

§ 32.13 Parliamentarian's Note: It is the responsibility of the Speaker, not the Chairman of the Committee of the Whole, to rule upon the propriety of a motion to recommit with instructions.

Raising Points of Order

§ 32.14 Where a motion to recommit with instructions is ruled out on a point of order, a further motion to recommit may be offered.

On Mar. 2, 1967,(16) the House was considering H.R. 4515, supplemental military authorizations for fiscal 1967. After Mr. Henry S. Reuss, of Wisconsin, offered a motion to recommit the bill with instructions, Mr. L. Mendel Rivers, of South Carolina, rose with a point of order:

> Mr. Rivers: Mr. Speaker, I make the point of order that the instructions contained in the motion to recommit are not germane to the bill under consideration. Therefore, they are not in order and are not germane to the matter under consideration.
>
> The Speaker:(17) The gentleman from South Carolina [Mr. Rivers] makes the point of order that the motion to recommit contains provisions that are not germane to the bill presently under consideration. . . .
>
> The Speaker: The Chair is prepared to rule. . . .
>
> It is evident to the Chair that the amendment—or at least portions thereof—are not germane as they involve different subjects than the field covered by the pending bill.
>
> The Chair sustains the point of order.
>
> The question is on the passage of the bill.
>
> Motion to Recommit
>
> Mr. [George E.] Brown [Jr.] of California: Mr. Speaker, I move to recommit the bill H.R. 4515, to the Committee on Armed Services, with instructions to report it back forthwith with an amendment which is at the Clerk's desk.
>
> The Speaker: The Chair will ask if the gentleman is opposed to the bill?
>
> Mr. Brown of California: I am opposed to the bill in its present form, Mr. Speaker.

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16. 113 Cong. Rec. 5155, 5156, 90th Cong. 1st Sess.

17. John W. McCormack (Mass.).

The Speaker: The Clerk will report the motion to recommit.(18)

§ 32.15 A point of order against a motion to recommit with an instruction was made prior to completion of the reading thereof, the same proposition having been ruled out as not germane when offered as an amendment in the Committee of the Whole.

On Mar. 2, 1967,(19) the House was considering H.R. 4515, supplemental military authorizations for fiscal 1967. After Mr. Henry S. Reuss, of Wisconsin, offered a motion to recommit the bill with certain instructions, Mr. L. Mendel Rivers, of South Carolina, interrupted the reading of the motion to make a point of order. Mr. Reuss spoke in defense of his motion.

The Speaker:(20) Does the gentleman from Wisconsin [Mr. Reuss] desire to be heard?

Mr. Reuss: Mr. Speaker, I shall appreciate proceeding briefly in opposition to the point of order that the amendment is not germane.

Mr. Speaker, the amendment contained in the motion to recommit is precisely the amendment which I offered earlier. It was ruled not germane by the able and respected Chairman of the Committee of the Whole House on the State of the Union, the gentleman from Illinois [Mr. Rostenkowski]. . . .

Mr. Speaker, we find ourselves thus in the position of having two precedents on both sides of the question, which is not an unprecedented matter in the history of precedents. It is a matter analogous to where there is disagreement in the circuit courts of appeals, thus requiring the Supreme Court to rule to resolve the dispute.

Accordingly, I hope and trust that the Speaker will rule that the motion to recommit, and the amendment contained in it, is germane, and thus that this body may vote on this important question of war and peace.

The Speaker: The Chair is prepared to rule. . . .

It is evident to the Chair that the amendment—or at least portions thereof—are not germane as they involve different subjects than the field covered by the pending bill.

The Chair sustains the point of order.

The question is on the passage of the bill.

Instructions to Report Back With Amendment

§ 32.16 The House recommitted a joint resolution to the Committee on Education and Labor with instructions that the preamble and body be reported back forthwith with an amendment in the nature of a substitute.

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18. See also 94 Cong. Rec. 5007, 5008, 80th Cong. 2d Sess., Apr. 28, 1948.

19. 113 Cong. Rec. 5155, 5156, 90th Cong. 1st Sess.

20. John W. McCormack (Mass.).

On Feb. 9, 1972,(1) the House was considering House Joint Resolution 1025, providing a procedure for settlement of a dispute on the Pacific Coast among certain shippers and employees. Mr. Albert H. Quie, of Minnesota, offered the following motion to recommit:

> Mr. Quie moves to recommit House Joint Resolution 1025 to the Committee on Education and Labor with instructions to that committee to report it back to the House forthwith with the following amendment: Strike out all after title of the joint resolution and insert in lieu thereof the following: . . .

The motion to recommit then provided an amendment in the nature of a substitute for the joint resolution.

Mr. [Frank] Thompson [Jr.] of New Jersey: Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

The Speaker:(2) The question is on the motion to recommit. . . .

So the motion to recommit was agreed to.

Instructions Modifying Previously Adopted Amendment

§ 32.17 Absent a special rule, a motion to recommit may not include instructions to modify an amendment previously agreed to by the House.

On Apr. 5, 1967,(3) the House was considering House Resolution 221, authorizing expenditures by the Committee on Un-American Activities. Mr. John Ashbrook, of Ohio, offered a motion to recommit the resolution with instructions and Mr. Wayne L. Hays, of Ohio, rose with a point of order against the motion.

The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. Ashbrook moves to recommit the resolution (H. Res. 221) to the Committee on House Administration with instructions to report the resolution forthwith with the following amendment: On page 1, line 5, strike out "$350,000" and insert in lieu thereof "$400,000."

Mr. Hays: Mr. Speaker——

The Speaker:(4) For what purpose does the gentleman rise?

Mr. Hays: Mr. Speaker, I make a point of order against the motion to recommit on the grounds that the House has just adopted the committee amendment to cut the amount from $400,000 to $350,000. The gentleman now offers a motion to recommit to restore it from the $350,000 to $400,000 and it is clearly out of order.

The Speaker: Does the gentleman from Ohio [Mr. Ashbrook] desire to be heard?

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1. 118 Cong. Rec. 3451–53, 92d Cong. 2d Sess.
2. Carl Albert (Okla.).
3. 113 Cong. Rec. 8441, 8442, 90th Cong. 1st Sess.
4. John W. McCormack (Mass.).

Mr. Ashbrook: Yes, Mr. Speaker.

Mr. Speaker, it appears to me that we voted to order the previous question on the amendments and the motion to recommit, in my opinion, would be a proper motion to recommit. I hope that the Chair will so hold.

The Speaker: The Chair will call attention to that fact that the previous question was ordered and the amendments were adopted by the House.

It is not in order to do indirectly by a motion to recommit with instructions that which may not be done directly by way of amendment.

An amendment to strike out an amendment already adopted is not in order. The subject matter of the motion to recommit has already been passed upon by the House.

The Chair sustains the point of order.(5)

§ 32.18 A motion to recommit an appropriation bill to a committee with instructions to reduce the amount of the appropriation by a certain amount is in order, but, absent a special rule, the committee may not report the bill back to the House with an amendment proposing a change in the amendments adopted by the House.

On May 15, 1939,(6) the House was considering H.R. 6260, providing appropriations for certain civil functions administration by the War Department. Speaker William B. Bankhead, of Alabama, recognized Mr. D. Lane Powers, of New Jersey, to offer a motion to recommit.

> Mr. Powers moves to recommit the bill to the Committee of Appropriations with instructions to report the same back forthwith with amendments reducting the total amount of the bill $50,000,000.

Mr. [Ross A.] Collins [of Mississippi]: Mr. Speaker, I make the point of order that the motion to recommit undertakes to do indirectly what cannot be done directly.

The amount carried in this bill, with these amendments, totals $305,000,000. Part of it is for the Panama Canal, part for cemeterial expense, part for the Signal Corps and Alaskan Communications Commission, part for rivers and harbors, part for flood control, and part for the United States Soldiers' Home. Of the amount of $305,000,000, $277,000,000 is for rivers and harbors and flood control, leaving only $28,000,000 for all of these other governmental activities. A reduction of $50,000,000 would take away a large part of the money carried in the two amendments voted in the House last Wednesday. A motion to recommit to do this cannot be done. This motion to recommit attempts to do indirectly what cannot be done directly. It proposes a second vote on the same propositions that were voted on last Wednesday; therefore is subject to a point of order.

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(5) See also 111 Cong. Rec. 2914, 2917, 89th Cong. 1st Sess., Feb. 17, 1965; 103 Cong. Rec. 12471, 85th Cong. 1st Sess., July 23, 1957; and 95 Cong. Rec. 5597, 81st Cong. 1st Sess., May 4, 1949.

(6) 84 Cong. Rec. 5535, 5536, 76th Cong. 1st Sess.

The Speaker: The Chair may state, in connection with the point of order made by the gentleman from Mississippi, that the Chair understands the purpose of the motion to recommit, one motion to recomit always being in order after the third reading, is to give those Members opposed to the bill an opportunity to have an expression of opinion by the House upon their proposition. It is true that under the precedents it is not in order by way of a motion to recommit to propose an amendment to an amendment previously adopted by the House, but the motion now pending does not specifically propose to instruct the Committee on Appropriations to do that. The Chair is inclined to the opinion that the motion to recommit in the form here presented is not subject to a point of order.

The Chair overrules the point of order. . . .

The Chair understands the rule to be that the House can adopt a motion to recommit with instructions to reduce the amount of the appropriation by $50,000,000, but the committee, if this motion should be adopted, could not report the bill back to the House with an amendment proposing a change in the amendments adopted by the House.

Parliamentarian's Note: Pursuant to such instructions, the Committee on Appropriations would not necessarily be forced to recommend specific reductions in line item appropriations, but could report an amendment directing an overall reduction of funds in the bill in some manner.

§ 32.19 Where a special rule permitted two motions to recommit and made such motions in order "any rule of the House to the contrary notwithstanding," it was held that instructions in a motion to recommit might propose the striking out of an amendment previously agreed to by the House.

On Mar. 22, 1935,(7) the House was considering H.R. 3896, relating to the payment of adjusted service certificates from World War I. Mr. Fred M. Vinson, of Kentucky, was recognized to offer a motion to recommit the bill with instructions.

Mr. Vinson of Kentucky: Mr. Speaker, I move to recommit the bill (H.R. 3896) to the Committee on Ways and Means with instructions to report the same back forthwith with the following amendment: Strike out all after the enacting clause in the said bill and insert the following amendment, which I send to the Clerk's desk.

After the Clerk reported the motion to recommit, Mr. Thomas L. Blanton, of Texas, raised a point of order against the motion.

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7. 79 Cong. Rec. 4309-11, 74th Cong. 1st Sess.

MR. BLANTON: Mr. Speaker, for the purpose only of getting a ruling from the Chair on the existing parliamentary situation, which is novel in that there has never been a precedent like it before in the whole history of this House, I make the point of order that even though the rule provides for two motions to recommit, they are under and governed by the general rules of the House except insofar as the special rule itself changes the general rules. The rules and precedents of the House provide that where a matter has been voted upon and adopted, not only in the Committee of the Whole House on the state of the Union but also in the House itself after the bill comes back from the Committee of the Whole House on the state of the Union to the House, and the House votes on such substantive proposition in the bill and registers its decision on that proposition, and motion is duly made and carried to reconsider the vote by which the proposition was passed and to lay that motion on the table, you cannot have two votes thereafter in the House on the same identical proposition that has been voted upon once in the House. . . .

THE SPEAKER:(8) The Chair is ready to rule. The pending bill is being considered under a special rule which was unanimously adopted by the House before the bill was taken up for consideration.

It is true, as the gentleman from Texas suggests, that under the ordinary rules of the House only one motion to recommit would be in order. However, the Committee on Rules, after a very long and thorough consideration of the question before the House, and after what the Chair understands to be a general understanding among those for and against either one of the bills, decided in the interest of fairness to propose a rule which permitted two motions to recommit.

While it has no bearing upon the ruling of the Chair, the Chair feels that every Member of the House, without regard to his position on this or any other bill pending, understood at the time the rule was proposed by the Committee on Rules, that it would enable the House to express its will with reference to these two bills. The rule was adopted unanimously, and it provided, "That if the instructions in such motion relate to the payment of World War adjusted-service certificates, they shall be in order, any rule of the House to the contrary notwithstanding."

Now, in view of the action of the House in adopting the rule, the Chair thinks, notwithstanding the fact that a vote was taken yesterday on the socalled "Patman bill" and a motion to reconsider laid on the table, it is in order to recognize a Member to offer the Vinson bill in a motion to recommit, even though it may involve a vote for the second time on the Patman bill.

The Chair therefore overrules the point of order.

§ 32.20 Where the House has adopted an amendment in the nature of a substitute, such amendment cannot be further amended by way of a motion to recommit with instructions, absent a special rule, and only a

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8. Joseph W. Byrns (Tenn.).

straight motion to recommit would be in order.

On June 17, 1952,(9) the House was considering S. 658, to amend the Communications Act of 1934. Mr. Charles A. Halleck, of Indiana, rose with a parliamentary inquiry:

> Mr. Halleck: In view of the fact that the matter before us is a committee amendment, a complete amendment to the whole bill, would any motion to recommit, except a straight motion to recommit, be in order?
>
> The Speaker:(10) That is the only motion that would be in order under the rule.(11)

§ 32.21 Where the rule under which a bill is being considered provides for "a motion to recommit with or without instructions," the motion to recommit may contain instructions to report back forthwith with amendments notwithstanding the fact that the House has just agreed to an amendment in the nature of a substitute reported from the Committee of the Whole.

On Sept. 29, 1965(12) the Committee of the Whole having considered the bill H.R. 4644, providing home rule for the District of Columbia, reported the bill back to the House with an amendment in the nature of a substitute adopted in the Committee of the Whole.

> The Speaker:(13) Under the rule, the previous question is ordered.
>
> The question is on the amendment. . . .
>
> Mr. [Howard W.] Smith of Virginia: Mr. Speaker, just to get this matter clarified, as I understand the rule, if the Sisk amendment is defeated on the rollcall which is approaching, then we go back to the original first Multer bill, the bill for which the discharge petition was signed. That is the original first bill and there cannot be any vote on any compromise bill. The original Multer bill will then not be subject to further amendment or to any amendment.(14)

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9. 98 Cong. Rec. 7421, 82d Cong. 2d Sess.
10. Sam Rayburn (Tex.).
11. See also 106 Cong. Rec. 9416, 9417, 86th Cong. 2d Sess., May 4, 1960; and 103 Cong. Rec. 12471, 85th Cong. 1st Sess., July 23, 1957.
12. 111 Cong. Rec. 25438, 25439, 89th Cong. 1st Sess.
13. John W. McCormack (Mass.).
14. Although Mr. Smith stated that he was seeking to clarify the matter, his statement reflected some confusion on his part. The impending vote was on the Multer substitute as amended by the Sisk substitute amendment, both of which had been adopted by the Committee of the Whole. Mr. Smith was correct in stating that if the Multer substitute as amended by the Sisk substitute amendment was defeated, the proposition then before

The Speaker: It would not be because the previous question has been ordered.

Mr. [Carl] Albert [of Oklahoma]: Mr. Speaker, may I make this parliamentary inquiry?

The Speaker: The gentleman will state it.

Mr. Albert: Is not what the distinguished gentleman from Virginia said subject to the right of the minority to offer a motion to recommit containing appropriate amendments with or without instructions?

The Speaker: The rule provides for one motion to recommit.

Mr. [Wayne L.] Hays [of Ohio]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Hays: That one motion to recommit, depending on who decides to offer it, may be a straight motion to recommit without any instructions, may it not?

The Speaker: It could be.

Mr. Hays: A further parliamentary inquiry, Mr. Speaker. Then the House would be faced with voting for or against the original bill Mr. Multer himself abandoned. Is that not true?

The Speaker: The Chair feels that the gentleman from Ohio answered his own question.

Instruction With Previously Rejected Amendment

§ 32.22 An amendment rejected in the Committee of the Whole may be offered in the House in a motion to recommit with instructions.

On July 8, 1940,(15) the House was considering S. 326, the Mexican claims bill. Mr. Hamilton Fish, Jr., of New York, offered a motion to recommit, and Mr. Luther A. Johnson, of Texas, rose with a point of order:

> Mr. Luther A. Johnson: Mr. Speaker, I make a point of order.
>
> The Speaker:(16) The gentleman will state it.
>
> Mr. Luther A. Johnson: An identical amendment was voted upon in Committee of the Whole, offered by the gentleman from Pennsylvania [Mr. Rich].
>
> The Speaker: That was an amendment which was offered in Committee of the Whole, the Chair will state. The House takes no judicial notice of action in Committee of the Whole or the rejection of an amendment in the Committee. The point of order is overruled.(17)

Instructions to Report Back "Forthwith"

§ 32.23 Instructions to report back "forthwith" accompanying a motion to recommit must be

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the House would have been H.R. 4644. H.R. 4644 was considered pursuant to H. Res. 515, which had been taken from the Committee on Rules on a discharge petition.

15. 86 Cong. Rec. 9302, 9303, 76th Cong. 3d Sess.
16. William B. Bankhead (Ala.).
17. See also 114 Cong. Rec. 10126-30, 90th Cong. 2d Sess., Apr. 22, 1968; and 93 Cong. Rec. 10445, 80th Cong. 1st Sess., July 26, 1947.

complied with immediately, and while the committee to which a bill is recommitted with instructions to report "forthwith" takes no action thereon, the Member in charge of the bill immediately reports the bill to the House as instructed, and the amendment is before the House for immediate consideration.

On Apr. 24, 1950,(18) after the engrossment and third reading of (H.R. 5965) providing for the construction of certain Veterans' Administration hospitals the House adopted a motion to recommit the bill to the Committee on Veterans' Affairs with instructions to report the bill back forthwith with an amendment.

Mr. [John E.] Rankin [of Mississippi]: Mr. Speaker, pursuant to the motion just adopted, I report the bill back with the amendment and move the previous question.

The previous question was ordered.

The Speaker:(1) The Clerk will report the amendment.

After the Clerk read the amendment the Speaker announced that the question was on the amendment. Mr. James W. Wadsworth, of New York, then rose with the following parliamentary inquirty.

Mr. Wadsworth: Mr. Speaker, is it possible that such a motion can be made by the gentleman from Mississippi in view of the fact that the committee has had no meeting?

The Speaker: This is a forthwith motion. The question is on the amendment.(2)

§ 32.24 Where a motion to recommit with instructions to report back "forthwith" with an amendment has been agreed to, and the bill and amendment have again been reported to the House, the question recurs upon agreeing to the amendment, and if the amendment is agreed to, the bill is again ordered engrossed and read a third time.

On Sept. 30, 1965,(3) Mr. James T. Broyhill, of North Carolina, had offered a motion to recommit the bill H.R. 10281, the Federal Salary Adjustment Act of 1965. After the Speaker, John W. McCormack, of Massachusetts, put the question on the motion to recommit the following took place:

The question was taken; and there were—yeas 238, nays 140, answered "present" 1, not voting 53. . . .

The result of the vote was announced as above recorded.

Mr. [James H.] Morrison [of Louisiana]: Mr. Speaker, pursuant to the in-

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18. 96 Cong. Rec. 5620, 81st Cong. 2d Sess.
1. Sam Rayburn (Tex.).
2. See also 107 Cong. Rec. 19208, 87th Cong. 1st Sess., Sept. 13, 1961; and 105 Cong. Rec. 8635, 8636, 86th Cong. 1st Sess., May 20, 1959.
3. 111 Cong. Rec. 25701, 25702, 89th Cong. 1st Sess.

structions of the House on the motion to recommit I report back the bill, H.R. 10281, with an amendment.

The Clerk read as follows:

> On page 38, strike out line 9 and all that follows through line 5 on page 39.

THE SPEAKER: The question is on the amendment.

The amendment was agreed to.

THE SPEAKER: The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time and was read the third time.

THE SPEAKER: The question is on passage of the bill.(4)

§ 32.25 A motion to recommit a bill to a committee with instructions to amend it and report the bill back to the House "as thus amended" was construed to mean "not forthwith," and the bill when reported back to the House was not given a privileged status.

On May 18, 1938,(5) the House was considering H.R. 9738, to create a Civil Aeronautics Authority. Mr. Carl E. Mapes, of Michigan, was recognized to offer a motion to recommit, and the following occurred:

The Clerk read as follows:

> Mr. Mapes moves to recommit the bill to the Committee on Interstate and Foreign Commerce with instructions to that committee to amend the bill so as to provide for the regulation of civil aeronautics by the Interstate Commerce Commission instead of by the Civil Aeronautics Authority provided in the bill, and to report the same back to the House as thus amended. . . .

MR. [GERALD J.] BOILEAU [of Wisconsin]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER:(6) The gentleman will state it.

MR. BOILEAU: The gentleman from Michigan has offered a motion to recommit which is not in the usual form of a motion to recommit, which provides that the committee shall report the bill back forthwith with the following amendments. It is a direction to the committee to amend the bill in accordance with the instructions in the motion to recommit and to report the bill back to the House. Obviously the motion to recommit, if carried, will necessitate considerable work on the part of the Committee on Interstate and Foreign Commerce. My parliamentary inquiry is, after the Committee on Interstate and Foreign Commerce makes the necessary changes as directed in the motion to recommit—assuming, of course, that the motion

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4. See also 111 CONG. REC. 1194, 1195, 89th Cong. 1st Sess., Jan. 26, 1965; 108 CONG. REC. 21897, 21898, 87th Cong. 2d Sess., Oct. 3, 1962; and 89 CONG. REC. 3948, 3956, 3957, 78th Cong. 1st Sess., May 4, 1943.

5. 83 CONG. REC. 7103, 75th Cong. 3d Sess.

6. William B. Bankhead (Ala.).

should prevail—would the bill then come back to the House automatically without action on the part of the Committee on Rules? In other words, would the bill amended in accordance with the instructions in the motion to recommit come back to the House as a matter of privilege?

The Speaker: In answer to the parliamentary inquiry of the gentleman from Wisconsin, the Chair will state that the bill would be reported back to the House as it was in the first instance before the consideration of the bill was begun.

Mr. Boileau: Assuming the motion to recommit prevails and the Committee on Interstate and Foreign Commerce is directed to make certain amendments, would not the committee then be forced to bring the bill back to the House as amended, and in that instance would it be a matter of privilege, or would the Committee on Rules be required to present a rule to make consideration of the bill in order?

The Speaker: This is a rather unusual form in which to prepare a motion to recommit. However, the Chair will have to construe the motion as it is presented in the light of the parliamentary inquiry of the gentleman from Wisconsin.

The motion provides that the committee shall amend the bill so as to provide, and so forth. If the motion to recommit should prevail, of course, under the terms of the motion the bill would be recommitted to the Committee on Interstate and Foreign Commerce for the purpose of undertaking to carry out the instructions. The Chair is not of the opinion that thereafter the bill would have a privileged status before the House.

§ 32.26 Where a motion to recommit a bill with instructions that it be reported back forthwith with an amendment has been agreed to, a motion to strike out the enacting clause of the bill is not in order pending the report of the committee pursuant to the instructions.

On Apr. 16, 1970,(7) the House adopted a motion to recommit the bill H.R. 16311, the Family Assistance Act of 1970, to the Committee on Ways and Means with instructions to report the bill back to the House forthwith with several amendments. Immediately after the vote was announced on the motion to recommit, Mr. Wayne L. Hays, of Ohio, was recognized:

> Mr. Hays: Mr. Speaker, I have a preferential motion.
>
> The Speaker:(8) Will the gentleman state his motion?
>
> Mr. Hays: I move that the enacting clause be stricken out.
>
> The Speaker: The Chair will state that that motion is not in order. The Chair passed on it awhile ago. That motion is not in order.(9)

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7. 114 Cong. Rec. 12093, 12106, 91st Cong. 2d Sess.
8. John W. McCormack (Mass.).
9. *Parliamentarian's Note:* The previous question had been ordered on the bill and amendments to final passage without intervening motion except one motion to recommit.

§ 32.27 The House voted to recommit a bill to a committee with instructions to report back forthwith with an amendment and then rejected the amendment when so reported.

On Feb. 4, 1940,(10) the House was considering H.R. 7551, relating to certain payments to the San Carlos Apache Indians. The House adopted a motion offered by Mr. Jesse P. Wolcott, of Michigan, to recommit the bill to the Committee on Indian Affairs with instructions to report it back forthwith with an amendment.

Mr. [Will] Rogers of Oklahoma: Mr. Speaker, pursuant to the instructions of the House, I refer the bill back to the House with an amendment.

The Clerk read as follows:

> Page 2, line 6, strike out all the remainder of the paragraph after the word "Indians."

The Speaker Pro Tempore:(11) The question is on agreeing to the amendment.

The question was taken; and on a division (demanded by Mr. Schafer of Wisconsin) there were—ayes 11, noes 14.

Mr. [John J.] Cochran [of Missouri]: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Cochran: Is that the amendment offered by the gentleman from Michigan [Mr. Wolcott] just adopted by a roll-call vote?

The Speaker Pro Tempore: The gentleman is correct. It was included in the motion to recommit. The House voted on the amendment provided for in the motion to recommit, and there were—ayes 11, noes 14.

Mr. [John C.] Schafer of Wisconsin: Mr. Speaker, I demand the regular order.

The amendment was rejected.

§ 32.28 The House having voted to recommit a bill to a committee with instructions to report back forthwith with an amendment agreed to the amendment when so reported, but then defeated the bill on a yea and nay vote.

On June 30, 1941,(12) the House was considering H.R. 4228, a wiretapping bill. After the House adopted a motion to recommit the bill to the Committee on the Judiciary with instructions to report it back forthwith with an amendment, the following occurred:

Mr. [Sam] Hobbs [of Alabama]: Mr. Speaker, in obedience to the instruction of the House we report the bill back as amended in accordance with the order of the House.

The Speaker:(13) The Clerk will report the amendment.

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10. 86 Cong. Rec. 1456–58, 76th Cong. 3d Sess.
11. Sam Rayburn (Tex.).
12. 87 Cong. Rec. 5793, 77th Cong. 1st Sess.
13. Sam Rayburn (Tex.).

After the Clerk reported the amendment the following occurred:

> The Speaker: The question is on agreeing to the amendment.
>
> The amendment was agreed to.
>
> The bill was ordered to be engrossed, read a third time, and was read the third time.
>
> The Speaker: The question in on the passage of the bill. . . .
>
> The question was taken; and there were—yeas 147, nays 154, answered "present" 1, not voting 130, as follows: . . .

Recommittal of Conference Report With Instructions

§ 32.29 On a motion to recommit a conference report with instructions, it is not in order to demand a separate vote on the instructions or various branches thereof.

On Apr. 11, 1956,(14) the House was considering the conference report on H.R. 12, to amend the Agricultural Act of 1949. After Mr. Joseph W. Martin, Jr., of Massachusetts, offered a motion to recommit the conference report with various instructions, Mr. Arthur L. Miller, of Nebraska, rose with a parliamentary inquiry:

> Mr. Miller of Nebraska: Since the motion to recommit applies to several titles and sections of the bill, is it possible under the rules of the House to get a separate vote on the various amendments that seek to strike certain matter from the bill?
>
> The Speaker:(15) A motion to recommit is not subject to division.

§ 32.30 A motion to recommit a conference report to the committee of conference with instructions to do something which the House itself does not have the power to do (to amend its own bill after its passage) is not in order.

On Aug. 25, 1950,(16) the House was considering the conference report on H.R. 7786, an appropriations bill. Mr. Vito Marcantonio, of New York, offered the following motion to recommit the conference report:

> Mr. Marcantonio moves to recommit the conference report on H.R. 7786 to the committee of conference with instructions to the managers on the part of the House to incorporate in the conference report the following provisions: At the end of chapter XI, titled "General Provisions," add the following:
>
> "None of the funds appropriated in this act shall be paid to any person, firm, partnership, or corporation which refuses equality in employment to any person because of race, color, or creed."

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14. 102 Cong. Rec. 6157, 84th Cong. 2d Sess.

15. Sam Rayburn (Tex.).

16. 96 Cong. Rec. 13476, 81st Cong. 2d Sess.

Mr. Clarence Cannon, of Missouri, rose with a point of order:

> MR. CANNON: Mr. Speaker, the motion is not in order for two reasons: In the first place, the proposed instructions to the House managers incorporated in the motion propose action which is not within their province, they direct the managers on the part of the House to change the conference report, an action which can be taken only with the concurrence of the managers on the part of the Senate.
>
> The second point is that the provision which the gentleman from New York seeks to add to the conference report does not appear in either the House bill or the Senate bill. It is therefore not in conference. It is not in difference between the two Houses. For either reason, the motion to recommit is not in order.
>
> THE SPEAKER:(17) The Chair is ready to rule. Without passing on the first point raised by the gentleman from Missouri, the Chair will rule on the second point made by the gentleman from Missouri. The point of order is that this matter was not incorporated in the bill when it passed the House, nor was it in the bill as it passed the other body. The motion to recommit calls upon the committee of conference to do something which the House itself does not have the power to do, namely to amend its own bill after its passage. This matter, not being in either the House version or the Senate version of the bill, the Chair holds that the point or order is well taken and sustains the point of order.

§ 32.31 A motion to recommit a conference report with instructions to the House managers to report back an amendment which would include the provisions of the bill as reported by the House committee, rather than as passed by the House with changes, was held not in order as being beyond the scope of the Senate and House passed versions.

On May 9, 1955,(18) the House was considering the conference report on S. 1, the Coastal Field Service Compensation Act of 1955. Mr. Edward H. Rees, of Kansas, offered a motion to recommit and the following occurred:

> Mr. Rees of Kansas moves to recommit the bill S. 1 as amended to the committee of conference with instructions to report back an agreement which would include the provisions of H.R. 4644 as reported by the House Post Office and Civil Service Committee, with the additional provision that the 6-percent increase be retroactive to March 1, 1955.
>
> MR. [THOMAS J.] MURRAY of Tennessee: Mr. Speaker, I make a point of order against the motion to recommit. As I understand, the motion instructs the conferees to do something less than the House voted. We are bound to follow the instructions of the House in

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17. Sam Rayburn (Tex.).

18. 101 CONG. REC. 5871, 84th Cong. 1st Sess.

the conference. That matter is not even in conference.

The Speaker:(19) The Chair is ready to rule. The Chair thinks that this question has been passed upon many times in the past. An exactly similar question was raised on September 15, 1922, when a very distinguished gentleman by the name of John N. Garner made a similar motion to recommit with instructions to the conferees to lower the rates contained in either the bill or in the amendment. Mr. Edward Taylor, of the State of Colorado, made the point of order. Speaker Gillette sustained the point of order, and that decision may be found in Cannon's Precedents, volume VIII, section 3244. It is exactly on all fours with this. Therefore, the Chair sustains the point of order.

Senate Practice

§ 32.32 Where the Senate recommits a bill to the committee which reported it such action nullifies all amendments agreed to on the floor; the committee has the entire matter before it again and may report it back with or without former committee amendments and amendments agreed to by the Senate, unless the motion to recommit contains specific instructions as to how the bill should be reported.

On May 11, 1949,(20) the Senate was considering H.R. 3083, Treasury and Post Office appropriations for 1950. The following discussion took place on the effect of the motion to recommit:

> The Vice President:(21) The Chair will advise Senators that when a bill is recommitted to the committee from which it emanates, such action nullifies all amendments that have been agreed to on the floor of the Senate, and the bill goes back to the committee—if it happens to be a House bill—in the same shape in which it came to the Senate from the House, regardless of the intention of any Senator.
>
> Mr. [Robert A.] Taft [of Ohio]: Mr. President, a parliamentary inquiry.
>
> The Vice President: The Senator will state it.
>
> Mr. Taft: Is it not true that the committee, complying with the intention of the Senate, as indicated by the motion, can report the bill back adopting or recommending as committee amendments, amendments which it formerly recommended, and also amendments which the Senate itself had specifically approved?
>
> The Vice President: The committee might do that; but the committee would have to act upon the amendments in committee as if no action had previously been taken.
>
> Mr. [Claude D.] Pepper [of Florida]: Mr. President, a parliamentary inquiry. . . .

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19. Sam Rayburn (Tex.).

20. 95 Cong. Rec. 6039, 81st Cong. 1st Sess.

21. Alben W. Barkley (Ky.).

The Senator from New Hampshire has today reaffirmed the same principle. I am raising the parliamentary question, Is not the Senate the superior body, which has control of the action of its committees? If the intention of the Senate is clear, could there be any parliamentary result to the contrary?

The Vice President: The Senate can instruct its committees as it sees fit. It may make an exception of any amendment which has been agreed to on the floor. However, if it does not make an exception of any amendment agreed to on the floor, the parliamentary effect of recommittal is to nullify all amendments agreed to on the floor. In the recommittal of the bill the other day no exception was made of any amendment. The committee has a perfect right to act upon its own judgment; but in the opinion of the Chair, there is no automatic exception with regard to any amendment agreed to in the Senate prior to recommittal of the bill.

§ 32.33 The Senate recommitted a House bill to its Committee on Commerce with instructions to report it back forthwith in an amended form combining the provisions of both the House bill and a related Senate measure.

On Feb. 20, 1970,(1) the Senate was considering H.R. 14465, relating to the expansion and improvement of airport and airway systems when Senator Warren G. Magnuson, of Washington, was recognized to offer a motion to recommit:

> **Mr. Magnuson**: Mr. President, I ask unanimous consent that H.R. 14465, to provide for expansion and improvement of the Nation's airport and airway systems, be recommitted to the Committee on Commerce with instructions to report back forthwith a bill which combines the provisions of S. 3108, to provide for additional Federal assistance for the improvement of the airway system, plus the provisions of H.R. 14465, as both were originally reported tc the Senate from the Committee on Finance. The bill has two parts and one part had to go to the Committee on Finance.
>
> **The Presiding Officer**:(2) Without objection, it is so ordered.
>
> **Mr. Magnuson**: This procedure is followed to permit the bill to be printed in the form in which it will be considered, I believe, early next week. This is one of the most important pieces of legislation we will consider this session.

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1. 116 Cong. Rec. 4327, 91st Cong. 2d Sess.
2. Robert C. Byrd (W. Va.).

F. MOTIONS TO RECONSIDER

§ 33. In General

The motion to reconsider is provided for by House rule.(3) It is the procedural device which permits the House to review its actions on a given proposition. Indeed, it has been said that the vote of the House on a proposition "is not final and conclusive upon the House itself until there has been an opportunity to reconsider it,"(4) and that ". . . neither a bill nor an amendment is passed or adopted until the motion to reconsider is disposed of. The Speaker is not allowed to sign a bill during the pendency of a motion to reconsider. . . ."(5) While pending, the motion serves to suspend the original proposition.(6) When the motion is agreed to, the question immediately recurs on the proposition to be reconsidered.(7)

The motion is privileged for consideration,(8) but if it relates to business which is in order only on certain days, it may be called up for consideration only when that class of business is in order.(9)

Rule XVIII clause 1(10) provides that the motion to reconsider may be entered by any Member who voted with the majority on a particular question, and then may be called up for consideration by any Member. "Majority" has been construed as meaning the prevailing side, as it has applied to those Members voting "nay" on a proposition defeated by a tie vote,(11) and to those Members, though a minority, whose votes defeated a proposition that required a two-

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3. "When a motion has been made and carried or lost, it shall be in order for any member of the majority, on the same or succeeding day, to move for the reconsideration thereof, and such motion shall take precedence of all other questions except the consideration of a conference report or a motion to adjourn, and shall not be withdrawn after the said succeeding day without the consent of the House, and thereafter any Member may call it up for consideration: *Provided,* That such motion, if made during the last six days of a session, shall be disposed of when made." Rule XVIII clause 1, *House Rules and Manual* § 812 (1981).

4. Speaker John G. Carlisle (Ky.), Jan. 31, 1889, cited in *Cannon's Procedure* (86th Cong.), p. 319.

5. Speaker Thomas B. Reed (Maine), Feb. 19, 1898, 31 CONG. REC. 1944, 55th Cong. 2d Sess.

6. 5 Hinds' Precedents § 5704.

7. 5 Hinds' Precedents § 5703.

8. 8 Cannon's Precedents § 2787.

9. 5 Hinds' Precedents §§ 5677-5681; 8 Cannon's Precedents §§ 2785, 2796.

10. *House Rules and Manual* § 812 (1981).

11. See § 35.2, infra.

thirds vote for approval.(12) However, when a vote is taken viva voce, or by division or tellers, and not recorded, any Member, regardless of how he voted, may enter the motion.(13)

Ordinarily, the motion is debatable only if the proposition sought to be reconsidered was debatable.(14) Recent precedent suggests that debate on the motion is in order only if the previous question has not been ordered.(15) Early precedents held that a vote on a proposition divested it of the previous question, so that a motion to reconsider the proposition would be debatable.(16)

In general, the motion to reconsider cannot be agreed to in the House in the absence of a quorum when the vote to be reconsidered required a quorum.(17)

The motion to reconsider occurs most frequently in conjunction with the motion to lay on the table. In most instances, the motion to reconsider is followed immediately by a motion to table the motion to reconsider, although quite frequently a unanimous-consent request is the method by which the motion to reconsider is laid on the table.(18)

A unanimous-consent request may be in order to vacate proceedings wherein the motion to reconsider has been laid on the table,(19) and on at least one occasion a unanimous-consent request to vacate the proceedings has been permitted in lieu of the motion to reconsider in the Committee of the Whole which is not in order.(1)

The motion to reconsider is in order on measures that have passed both Houses(2) and on measures sent to the Senate or the President.(3) It is in order on a vote ordering the yeas and nays(4) (but if the House votes by a majority to reconsider the calling of the yeas and nays, they may again be ordered by one-fifth of the Members),(5) and on a vote refusing the yeas and nays.(6)

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12. See 5 Hinds' Precedents §§ 5617, 5618.
13. See § 35.3, infra.
14. 5 Hinds' Precedents §§ 5694–5699; 8 Cannon's Precedents §§ 2437, 2792.
15. See § 41, infra.
16. See 5 Hinds' Precedents §§ 5491, 5492, 5494.
17. *House Rules and Manual* § 812 (1981). Compare § 37.1, infra.
18. See generally §§ 34, 39, infra.
19. See § 38.5, infra.
1. See § 38.6, infra.
2. 4 Hinds' Precedents §§ 3466–3469.
3. 5 Hinds' Precedents §§ 5666–5668.
4. 5 Hinds' Precedents § 6029; 8 Cannon's Precedents § 2790.
5. 5 Hinds' Precedents §§ 5689–5691.
6. 5 Hinds' Precedents § 5692.

Reconsideration is also in order on an affirmative vote to lay on the table(7) and on a negative vote to lay on the table.(8) However, it is not in order to reconsider the vote whereby the House tabled another motion to reconsider.(9) The vote to lay on the table an appeal from a decision of the Speaker may be reconsidered.(10)

It has been held in order to reconsider an action predicated on a request for unanimous consent, on the theory that such a request is in effect a motion.(11)

Reconsideration is in order once on a vote ordering the previous question,(12) but may not be applied to a vote ordering the previous question which has been partially executed.(13) However, on two occasions the motion to reconsider was applied to partially executed orders of the House.(14)

Recent precedents indicate that the motion to reconsider may be applied to a vote on a conference report,(15) or to a vote on recommitting a conference report.(16)

The motion to reconsider is not in order on a negative vote to adjourn,(17) on a negative vote for a recess,(18) or on a negative vote on going into the Committee of the Whole which is akin to the question of consideration, which is also immune to the motion,(19) though it has been admitted on an affirmative vote to go into the Committee of the Whole.(20)

Reconsideration is not in order on a negative vote on a motion to suspend the rules(1) nor on a vote to override a Presidential veto.(2)

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7. 5 Hinds' Precedents §§ 5628, 5695, 6288; 8 Cannon's Precedents § 2785; § 39.3, infra. Thus the motion to reconsider provides a third method (in addition to suspension of the rules and requests for unanimous consent) whereby matters laid on the table may be brought back for consideration.

8. 5 Hinds' Precedents § 5629.

9. 5 Hinds' Precedents §§ 5632–5640.

10. 5 Hinds' Precedents § 5630.

11. 8 Cannon's Precedents § 2794.

12. 5 Hinds' Precedents § 5655.

13. 5 Hinds' Precedents §§ 5653, 5654.

14. 3 Hinds' Precedents § 2028; 5 Hinds' Precedents § 5665.

15. See § 39.4, infra.

16. See § 39.5, infra.

17. 5 Hinds' Precedents §§ 5620–5622.

18. 5 Hinds' Precedents § 5625.

19. 5 Hinds' Precedents § 5641.

20. 5 Hinds' Precedents § 5368.

1. 5 Hinds' Precedents §§ 5645, 5646; 8 Cannon's Precedents § 2781.

2. *House Rules and Manual*, Jefferson's Manual § 109 (1981); 5 Hinds' Precedents § 5644; 8 Cannon's Precedents § 2778.

The motion to reconsider may not be applied to the vote by which the House decided a question of parliamentary procedure(3) nor on a vote on the reference of a bill to a committee.(4)

A proposition once reconsidered may not be reconsidered again(5) unless the nature of the proposition has been changed by amendment.(6)

To entertain a motion to reconsider the vote on an amendment to an amendment, for example, it is first necessary to vote to reconsider the vote by which the original amendment, as amended, was disposed of. Thus is it proper to reconsider various questions in reverse order until proceedings return, in effect, to the original position in which the question which is to be reconsidered was pending.

The purpose of reconsideration is to allow the House to reflect on the wisdom of its action on a given proposition. Since a vote taken in the Committee of the Whole is not binding on the House until ratified there, reconsideration is not in order in the Committee of the Whole. The precedents are in conflict as to whether or not the motion to reconsider may be entered by unanimous consent in the Committee of the Whole(7) but the Chair would normally decline to entertain such a request. However, the motion is in order in the House as in the Committee of the Whole.(8)

In committees, the motion to reconsider may be entered on the same day on which the action is taken to which it is proposed to be applied, or on the next day thereafter on which the committee convenes with a quorum present at a properly scheduled meeting at which business of that class is in order.(9)

§ 34. Purpose and Effect; Pro Forma Motion

The most common usage of the motion to reconsider is its perfunctory disposal by a Member simultaneously entering the motion and moving to lay it on the table. One Member may move to reconsider and another may move to lay that motion on the table, or both motions may be entered by the same Member. Usually, after

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3. 8 Cannon's Precedents § 2776.
4. 8 Cannon's Precedents § 2782.
5. See § 39.16, infra (Senate).
6. 5 Hinds' Precedents §§ 5685–5688; 8 Cannon's Precedents § 2788.
7. See § 39, infra.
8. 8 Cannon's Precedents § 2793.
9. See 8 Cannon's Precedents § 2213.

the Clerk has announced the result of a vote, the Speaker will declare, "Without objection, a motion to reconsider is laid on the table." This precludes subsequent motions for reconsideration.(10)

The pro forma motion is generally accepted as the method of making a decision of the House final.(11)

If the prerogative of reconsideration is to be preserved a Member must object to the pro forma motion in a timely manner and may be well advised to notify the Speaker in advance of his intention to seek genuine reconsideration.

Tabling of Motion to Reconsider

§ 34.1 A motion to reconsider and a motion to table that motion may be made from the floor and agreed to by unanimous consent.

On July 18, 1962,(12) the House voted to recommit the conference report on S. 167, relating to the enforcement of the antitrust laws. Mr. H. R. Gross, of Iowa, then rose to his feet.

> Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER:(13) The gentleman will state it.
>
> MR. GROSS: Was the vote by which the motion to recommit carried reconsidered and that motion laid on the table?
>
> THE SPEAKER: It has not been yet.
>
> MR. GROSS: I so move, Mr. Speaker.
>
> THE SPEAKER: Without objection the motion to reconsider will be laid on the table.
>
> There was no objection.

§ 34.2 Following inquiry from the floor, a motion to reconsider the vote whereby a conference report was recommitted was laid on the table.

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(10) See § 34.5, infra. In practice, one of the Members managing the bill under consideration will move that the motion to reconsider be laid on the table, thereby precluding reconsideration. Floyd M. Riddick, *Congressional Procedure,* Chapman and Grimes (Boston, 1941) p. 237.

(11) The pro forma use of the motion is generally proposed by Members who agree with the decision reflected in the vote that is the subject of the motion. It is interesting to note that after Thaddeus Stevens had successfully sponsored the House resolution that President Andrew Johnson be impeached Mr. Stevens moved to reconsider the vote by which the resolution was agreed to, and also moved to lay the motion to reconsider on the table. The later motion was agreed to, this being the parliamentary mode of making a decision final.

(12) 108 CONG. REC. 13997, 87th Cong. 2d Sess.

(13) John W. McCormack (Mass.).

On the legislative day of Dec. 20, 1963,(14) the House voted to recommit Conference Report No. 1091, on House Resolution 9499 (foreign aid appropriations). Mr. Charles A. Halleck, of Indiana, rose with the following inquiry:

> Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER:(15) The gentleman will state the parliamentary inquiry.
>
> MR. HALLECK: Mr. Speaker, was a motion to reconsider the vote just taken on the motion to recommit tabled?
>
> THE SPEAKER: The Chair thanks the gentleman.
>
> A motion to reconsider the vote by which action was taken on the motion to recommit the conference report on H.R. 9499 making appropriations for foreign aid and related agencies for other purposes, was laid on the table.

Who May Offer

§ 34.3 After a recapitulation confirmed that a proposition had been passed by a single vote, the Speaker, by unanimous consent, laid a motion to reconsider that vote on the table, despite a later objection from a Member who had voted on the losing side and who had sought the recapitulation.

On Aug. 12, 1941,(16) the House approved by one vote House Joint Resolution 222, to amend the Selective Service Act of 1940. Mr. Dewey Short, of Missouri, who had voted against the bill, first sought and obtained a recapitulation, and then attempted to have the vote reconsidered.

> THE SPEAKER:(17) . . . [T]he vote stands and the bill is passed and without objection a motion to reconsider is laid on the table. . . .
>
> MR. SHORT: Mr. Speaker, I was on my feet.
>
> THE SPEAKER: The Chair announced the vote before the recapitulation. There were no changes whatsoever and the Chair announced that the vote stood and the bill was passed, and without objection a motion to reconsider was laid on the table, and there was no objection.
>
> MR. SHORT: Mr. Speaker, I object, and I demand recognition. I wanted to move to recapitulate the vote by which the bill was passed.
>
> THE SPEAKER: That has already been done.
>
> MR. SHORT: I mean to reconsider the vote by which the bill was passed.
>
> THE SPEAKER: The vote has been recapitulated.
>
> MR. SHORT: I meant to reconsider the vote by which the bill was passed.
>
> MR. [EARL C.] MICHENER [of Michigan]: Mr. Speaker, a parliamentary inquiry.

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14. 109 CONG. REC. 25423, 88th Cong. 1st Sess., Dec. 21, 1963 (Calendar Day).
15. John W. McCormack (Mass.).
16. 87 CONG. REC. 7075, 77th Cong. 1st Sess.
17. Sam Rayburn (Tex.).

The Speaker: The gentleman will state it.

Mr. Michener: Mr. Speaker, there is no use getting excited about this.

The Speaker: The Chair trusts the gentleman from Michigan does not think the Chair is excited.

Mr. Michener: The only thing that would make me think it was the speed with which the Speaker passed the bill and refused to recognize the gentleman from Missouri [Mr. Short], who was on the floor.

The Speaker: The gentleman did not state for what purpose.

Mr. Short: Mr. Speaker, I did not have time. I wanted to move to reconsider the vote by which the bill was passed.

The Speaker: The gentleman, in the first place, is not eligible to make that motion.(18)

Effect of Objection to Request to Table

§ 34.4 Where objection was raised to the pro forma unanimous-consent request stated by the Speaker that a motion to reconsider be tabled, the Chair announced that the objection was heard and then, since no Member sought recognition to make a motion relating to the pending bill, recognized another Member to call up the next item of scheduled business.

On Oct. 9, 1969,(19) after the House agreed to a conference on H.R. 11612 (Department of Agriculture appropriations for 1970) Mr. Silvio O. Conte, of Massachusetts, offered a motion to instruct the House conferees to insist on a certain provision therein. The following then occurred:

Mr. [Jamie L.] Whitten [of Mississippi]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Mr. Whitten moves to lay on the table the motion offered by the gentleman from Massachusetts (Mr. Conte).

The Speaker:(20) The question is on the preferential motion offered by the gentleman from Mississippi (Mr. Whitten). . . .

The question was taken; and there were—yeas 181, nays 177, not voting 73. . . .

So the preferential motion was agreed to. . . .

The Speaker: The Chair appoints the following conferees: Messrs. Whitten, Natcher, Hull, Shipley, Evans of Colorado, Mahon, Langen, Michel, Edwards of Alabama, and Bow.

Without objection, a motion to reconsider is laid on the table.

Mr. Ashbrook: Mr. Speaker, I object.

The Speaker: Objection is heard.

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(18) For eligibility requirements to offer the motion to reconsider, see § 35, infra.

(19) 115 Cong. Rec. 29315, 29316, 91st Cong. 1st Sess.

(20) John W. McCormack (Mass.).

The Speaker then recognized another Member to call up a special rule for the consideration of a bill seeking to limit the number of hours of work permitted for railroad employees. The motion to reconsider was not entered or called up on the next legislative day, so the matter became moot.

Tabling of Motion to Reconsider as Affecting Second Motion to Reconsider

§ 34.5 The tabling of a motion to reconsider by the Speaker has precluded a Member from subsequently offering a motion to reconsider the same question.

On June 20, 1967,(21) the House voted approval of H.R. 10480, a bill prohibiting desecration of the flag. After announcement of the result of the vote, a motion to reconsider was laid on the table by unanimous consent.

Subsequently, Mr. Theodore R. Kupferman, of New York, sought to have the vote reconsidered, but the Speaker ruled that motion out of order.

> THE SPEAKER:(1) The question is on the passage of the bill.
>
> MR. [ROBERT] MCCLORY [of Illinois]: Mr. Speaker, on that I demand the yeas and nays.
>
> The yeas and nays were ordered.
>
> The question was taken; and there were—yeas 387, nays 16, not voting 30. . . .
>
> The result of the vote was announced as above recorded.
>
> A motion to reconsider was laid on the table.
>
> MR. KUPFERMAN: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman from New York will state his parliamentary inquiry.
>
> MR. KUPFERMAN: Mr. Speaker, I voted for this bill believing that the word "knowingly" had been included at line 8 on page 1. It was adopted in committee on the amendment proposed by the gentleman from Pennsylvania [Mr. Biester]. I am now told informally—and that is the basis for my parliamentary inquiry—that the provision is not included in the bill we voted for because of the adoption in the committee, also, of the amendment of the gentleman from New Hampshire [Mr. Wyman], which was later defeated in the House itself. So my parliamentary inquiry is, Mr. Speaker, is the word "knowingly" included on line 8, page 1, of the bill that has just been adopted by the House?
>
> THE SPEAKER: In reply to the parliamentary inquiry, the Chair will state that the word "knowingly" is not included.
>
> MR. KUPFERMAN: Then I make a point of order, Mr. Speaker.
>
> THE SPEAKER: As the Chair understands the situation, the gentleman from California [Mr. Corman], in the

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21. 113 CONG. REC. 16497, 16498, 90th Cong. 1st Sess.

1. John W. McCormack (Mass.).

Committee of the Whole offered an amendment to strike out the last two lines on page 1 and the first two lines on page 2 and insert new language. The gentleman from Pennsylvania [Mr. Biester] then offered a substitute for the Corman amendment. The substitute, which proposed to insert the word "knowingly" after the word "whoever" in the first line of the section, was agreed to; and the Corman amendment, as amended, was then agreed to.

Subsequently, the gentleman from New Hampshire [Mr. Wyman] offered an amendment to strike out the last two lines on page 1 and the first line on page 2 and insert new language. This amendment was adopted in the Committee of the Whole and was then reported to the House. The only amendment to this part of the bill reported to the House by the Committee of the Whole was the so-called Wyman amendment.

The House, on a separate vote, then rejected the Wyman amendment. The net result was that the language of the original bill was then before the House. The language of the original bill was thus what the House passed.

Mr. Kupferman: Even though, Mr. Speaker, we had adopted the word "knowingly" as proposed by the gentleman from Pennsylvania [Mr. Biester].

In other words, Mr. Speaker, I must make a point of order because I believe—and I know that a great many other Members of the House believe—that they voted for this bill on the basis that the word "knowingly" was included. My vote might very well have been otherwise had it not been included, and I must make the point of order that the vote was taken on a false premise.

The Speaker: The Chair will state that there is no point of order involved. The Chair has undertaken to answer a parliamentary inquiry proposed by the gentleman from New York. As a result of the various motions and the actions of the Committee of the Whole or, rather, the action of the House, the original language of the bill has been restored and the original language of the bill is the language that finally passed the House.

Mr. [Byron G.] Rogers of Colorado: Mr. Speaker, a further parliamentary inquiry.

The Speaker: The gentleman from Colorado will state his parliamentary inquiry.

Mr. Rogers of Colorado: Mr. Speaker, that also includes the word "burning" which was a committee amendment; is that correct?

The Speaker: The Chair will state to the gentleman from Colorado that the two words "knowingly" and "burning" were eliminated by the action of the House.

Mr. Rogers of Colorado: I thank the distinguished Speaker.

Mr. Kupferman: Mr. Speaker, a further parliamentary inquiry.

The Speaker: The gentleman from New York will state his parliamentary inquiry.

Mr. Kupferman: Mr. Speaker, may I ask is it in order for reconsideration of the vote on the ground that there was a misconception at the time of the vote?

The Speaker: The Chair will reply to the gentleman from New York that a motion to reconsider was laid on the table and that a motion to reconsider at this point is not in order.

§ 35. Who May Offer; Calling Up

Members Voting With the Majority

§ 35.1 A motion to reconsider a vote may be made by a Member voting with the majority on that vote.

On May 5, 1943,(2) Mr. Robert Ramspeck, of Georgia, called up for consideration a previously entered motion to reconsider the vote whereby a conference report had been rejected. A parliamentary inquiry was raised and entertained by Speaker Sam Rayburn, of Texas.

> MR. RAMSPECK: Mr. Speaker, pursuant to rule 18, I call up for consideration the motion to reconsider the vote whereby the conference report on the bill (H.R. 1860) to provide for the payment of overtime compensation to Government employees, and for other purposes, was rejected.
>
> MR. [JOHN] TABER [of New York]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. TABER: Was the motion to reconsider made by one of those who was in the majority upon that question?
>
> THE SPEAKER: It was. It was made by the gentleman from Texas [Mr. Worley].(3)

Reconsideration of Tie Vote

§ 35.2 Since a tie vote defeats a question, a Senator who voted in the affirmative is not on the prevailing side and is precluded from moving to reconsider the question.

On Feb. 4, 1964,(4) Senator Thomas H. Kuchel, of California, moved to reconsider the tie vote whereby the Senate rejected an amendment to H.R. 8363, the Revenue Act of 1964. With Senator George McGovern, of South Dakota, presiding, the following occurred:

> MR. KUCHEL: Mr. President, I move that the Senate reconsider the vote by which the last amendment was defeated. I ask for the yeas and nays on the motion. . . .
>
> MR. [ELMER J.] HOLLAND [of Pennsylvania]: A point of order.
>
> THE PRESIDING OFFICER: The Senator will state his point of order.
>
> MR. HOLLAND: Is the Senator from California in position to make his motion?
>
> MR. [RUSSEL B.] LONG of Louisiana: How did the Senator from California vote?

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2. 89 CONG. REC. 4001, 78th Cong. 1st Sess.

3. See also 87 CONG. REC. 7074, 7075, 77th Cong. 1st Sess., Aug. 12, 1941.

4. 110 CONG. REC. 1854, 88th Cong. 2d Sess.

Mr. Kuchel: I make my motion. I voted in the affirmative.

Mr. Long of Louisiana: The Senator is not in a position to make his motion.

Mr. Kuchel. I renew my motion.

Mr. Long of Louisiana: Mr. President——

The Presiding Officer: The Senator from California voted in the affirmative. The Parliamentarian informs the Chair that the Senator from California, therefore, is not in a position to make his motion.

Reconsideration of Unrecorded Vote

§ 35.3 Where there has been no recorded vote, a Member offering a motion to reconsider will not be compelled to say whether he voted with the majority or minority.

On July 14, 1932,(5) Mr. William P. Connery, Jr., of Massachusetts, moved to reconsider a vote by division on a motion to recommit Senate Joint Resolution 169, to relocate the unemployed on unoccupied rural lands. A point of order was raised that Mr. Connery had not voted with the majority and was therefore not eligible to make that motion.

Mr. Connery: Mr. Speaker, I move to reconsider the vote on the motion to recommit the resolution, Senate Joint Resolution 169, and spread that on the Journal.

Mr. [John B.] Schafer [of Wisconsin]: Mr. Speaker, a point of order. The gentleman voted against the motion, and under the parliamentary situation and the rules of the House, the gentleman can not move to reconsider the vote.

The Speaker:(6) The Chair has no knowledge of how any vote was cast. There was no roll call.

Mr. [John] Taber [of New York]: But should not the gentleman be required to state how he voted, when the question is raised, Mr. Speaker?

The Speaker: Well, it has not been customary in the House since the present occupant of the chair has been a Member of it.

Timeliness of Objection as to Eligibility

§ 35.4 A point of order that a Senator who had moved to reconsider was ineligible to make the motion [not being on prevailing side of question] comes too late where a motion to table the motion to reconsider has been rejected and yeas and nays have been ordered on the motion to reconsider.

On July 23, 1964,(7) during Senate consideration of S. 2642, the Economic Opportunity Act of 1964, with Senator Daniel Inouye, of Hawaii, presiding, the following took place:

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5. 75 Cong. Rec. 15392, 72d Cong. 1st Sess.

6. John N. Garner (Tex.).

7. 110 Cong. Rec. 16722, 16723, 88th Cong. 2d Sess.

Mr. [Jacob K.] Javits [of New York]: Mr. President, I move that the Senate reconsider the vote by which the amendment was agreed to.

Mr. [Winston L.] Prouty [of Vermont]: I move to lay that motion on the table.

The Presiding Officer: The question is on agreeing to the motion of the Senator from Vermont to lay on the table the motion of the Senator from New York to reconsider the vote by which the amendment was agreed to.

Mr. [Hubert H.] Humphrey [of Minnesota]: Mr. President, on this question, I ask for the yeas and nays.

The yeas and nays were ordered.

The Presiding Officer: The clerk will call the roll.

The legislative clerk proceeded to call the roll. . . .

The result was announced—yeas 45, nays 45, as follows. . . .

So the motion to lay on the table was rejected.

Mr. [Thomas H.] Kuchel [of California]: Mr. President, on the last vote, was the question to lay on the table the motion to reconsider?

The Presiding Officer: That is correct.

Mr. Kuchel: Is the question now on the motion to reconsider?

The Presiding Officer: That is correct. . . .

Mr. [John G.] Tower [of Texas]: Mr. President, a point of order.

The Presiding Officer: The Senator will state it.

Mr. Tower: The motion to reconsider was made by the Senator from New York, who, I believe, was not on the prevailing side.

The Presiding Officer: The Parliamentarian advises the Chair that it is too late to raise that point of order.

Calling Up on Subsequent Day; Form

§ 35.5 A Member entered a motion to reconsider the vote by which a conference report was rejected; subsequently, another Member called up that motion for the consideration of the House.

On Apr. 22, 1943,(8) Mr. Eugene Worley, of Texas, moved to reconsider the vote whereby the House had on the previous day rejected H.R. 1860, a bill to provide overtime compensation for government employees.

Mr. Worley: Mr. Speaker, I move to reconsider the action by which H.R. 1860 was on yesterday rejected.

On May 5, 1943,(9) Mr. Robert Ramspeck, of Georgia, called up for consideration a motion to reconsider the vote by which a conference report had been rejected.

Mr. Ramspeck: Mr. Speaker,(10) pursuant to rule 18, I call up for consider-

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8. 89 Cong. Rec. 3729, 78th Cong. 1st Sess.
9. *Id.* at p. 4001.
10. Sam Rayburn (Tex.).

ation the motion to reconsider the vote whereby the conference report on the bill (H.R. 1860) to provide for the payment of overtime compensation to Government employees, and for other purposes, was rejected.

§ 36. Withdrawing the Motion

Withdrawal of Senate Motion to Reconsider

§ 36.1 In the Senate, a motion to reconsider was withdrawn, by unanimous consent, some seven months after having been entered.

On Nov. 18, 1963,(11) with Senator Gaylord A. Nelson, of Wisconsin, presiding, the following took place on the Senate floor:

> MR. [MIKE] MANSFIELD [of Montana]: Mr. President, I ask unanimous consent to withdraw the motion which I made on April 26 to reconsider H.R. 2837, a bill to amend further section 11 of the Federal Register Act.
>
> THE PRESIDING OFFICER: Is there objection?
>
> The Chair hears none, and it is so ordered.
>
> H.R. 2837 will be transmitted to the House of Representatives.

§ 37. Requirement for a Quorum

Effect of Point of Order of no Quorum

§ 37.1 When a point of order that a quorum was not present was raised against the offering of a motion to reconsider the vote by which a bill was adopted, the proponent of the motion indicated a willingness to enter, rather than make, the motion; the point of order was withdrawn, and the motion was entered.

On Apr. 22, 1943,(12) Mr. Eugene Worley, of Texas, moved to reconsider the vote whereby the House had on the previous day rejected H.R. 1860, a bill to provide overtime compensation for government employees. Objection was made on the ground that a quorum was not present, but was withdrawn after Mr. Worley asked for unanimous consent to enter, rather than to make, his motion:

> MR. WORLEY: Mr. Speaker, I move to reconsider the action by which H.R. 1860 was on yesterday rejected.
>
> MR. [ALBERT A.] GORE [of Tennessee]: Mr. Speaker, I make the point of order a quorum is not present.
>
> MR. WORLEY: Mr. Speaker, I ask unanimous consent to enter the motion.

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11. 109 CONG. REC. 22063, 88th Cong. 1st Sess.

12. 89 CONG. REC. 3729, 78th Cong. 1st Sess.

Mr. Gore: Mr. Speaker, then I withdraw the point of order.

The Speaker:(13) Is there objection to the request of the gentleman from Texas [Mr. Worley]?

There was no objection.

Parliamentarian's Note: Since a quorum is required to reconsider the vote on a proposition which requires a quorum (5 Hinds' Precedents § 5606), and since under the rules then applicable no business could be conducted once a point of no quorum was made, it became necessary to seek unanimous consent to enter the motion. However, once the point of order was withdrawn, such unanimous consent would no longer have been required.

§ 38. As Related to Other Motions

Motion to Lay on the Table

§ 38.1 The motion to reconsider may be applied to a vote to lay a matter on the table (except to a vote to table a motion to reconsider) and conversely, a motion to reconsider may be laid on the table.

On Oct. 9, 1968,(14) Mr. Robert Taft, Jr., of Ohio, sought to appeal a ruling of the Chair, and Mr. Carl Albert, of Oklahoma, moved to lay that appeal on the table. After the House voted to table the appeal the following took place:

Mr. [Craig] Hosmer [of California]: Mr. Speaker, I offer a privileged motion.

The Speaker:(15) The gentleman from California will state his privileged motion.

Mr. Hosmer: Mr. Speaker, I move to reconsider the vote on the motion to lay the appeal from the Chair on the table.

Mr. Albert: Mr. Speaker, I move that the motion be laid on the table.

The Speaker: The gentleman from California moves to reconsider the vote on the motion to lay the appeal from the decision of the Chair on the table, and the gentleman from Oklahoma moves that that motion be laid on the table.

Mr. Hosmer: Mr. Speaker, I make a point of order against the motion of the gentleman from Oklahoma to lay my motion on the table because that motion does not lie.

The Speaker: The Chair will state that a motion to lay on the table, on a motion to reconsider, is a recognized motion. . . .

The question is on the motion offered by the gentleman from Oklahoma [Mr. Albert], that the motion to reconsider be laid on the table.

The question was taken; and there were—yeas 136, nays 104, not voting 191. . . .

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13. Sam Rayburn (Tex.).

14. 114 Cong. Rec. 30214-16, 90th Cong. 2d Sess.

15. John W. McCormack (Mass.).

So the motion to lay on the table was agreed to.

§ 38.2 A motion to reconsider and a motion to table the motion to reconsider were made from the floor and agreed to by unanimous consent.

On July 18, 1962,(16) after the House adopted a motion to recommit the conference report on S. 167 relating to the enforcement of antitrust laws, the following occurred:

Mr. [H. R.] Gross [of Iowa]: Mr. Speaker, a parliamentary inquiry.

The Speaker:(17) The gentleman will state it.

Mr. Gross: Was the vote by which the motion to recommit carried reconsidered and that motion laid on the table?

The Speaker: It has not been yet.

Mr. Gross: I so move, Mr. Speaker.

The Speaker: Without objection the motion to reconsider will be laid on the table.

There was no objection.

§ 38.3 After a Member inquired as to whether a motion to reconsider a vote on a motion to recommit had been tabled, the motion to reconsider was laid on the table.

On the legislative day of Dec. 20, 1963,(18) the House voted to recommit Conference Report No. 1091 on H.R. 9499, dealing with foreign aid appropriations for fiscal 1964. The following then took place:

Mr. [Charles A.] Halleck [of Indiana]: Mr. Speaker, a parliamentary inquiry.

The Speaker:(1) The gentleman will state the parliamentary inquiry.

Mr. Halleck: Mr. Speaker, was a motion to reconsider the vote just taken on the motion to recommit tabled?

The Speaker: The Chair thanks the gentleman.

A motion to reconsider the vote by which action was taken on the motion to recommit the conference report on H.R. 9499 making appropriations for foreign aid and related agencies for the fiscal year ending June 30, 1964, and for other purposes, was laid on the table.

§ 38.4 Where objection was raised to a unanimous-consent request that a motion to reconsider be tabled, the Chair announced that the objection was heard and then, since no Member sought recognition to make a motion relating to the pending bill, recognized another Member to call up the next item of scheduled business.

On Oct. 9, 1969,(2) after the House agreed to a conference on

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16. 108 Cong. Rec. 13997, 87th Cong. 2d Sess.

17. John W. McCormack (Mass.).

18. 109 Cong. Rec. 25423, 88th Cong. 1st Sess., Dec. 21, 1963 (Calendar Day).

1. John W. McCormack (Mass.).

2. 115 Cong. Rec. 29315, 29316, 91st Cong. 1st Sess.

H.R. 11612 relating to agriculture appropriations for fiscal 1970, Mr. Silvio O. Conte, of Massachusetts, offered a motion to instruct the House conferees to insist on a certain provision of the bill. The following then occurred:

> MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Speaker, I offer a preferential motion.
>
> The Clerk read as follows:
>
> > Mr. Whitten moves to lay on the table the motion offered by the gentleman from Massachusetts (Mr. Conte).
>
> THE SPEAKER:[3] The question is on the preferential motion offered by the gentleman from Mississippi (Mr. Whitten). . . .
>
> So the preferential motion was agreed to [and the Chair appointed managers on the part of the House].
>
> Without objection, a motion to reconsider is laid on the table.
>
> MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Speaker, I object.
>
> THE SPEAKER: Objection is heard.

The Speaker then recognized another Member to call up a special rule for the consideration of another bill. The motion to reconsider was neither entered nor called up the next legislative day, so the matter became moot.

Unanimous-consent Requests

§ 38.5 A unanimous-consent request to vacate the proceedings whereby a conference report was agreed to and a motion to reconsider laid on the table, was entertained by the Chair but objected to.

On May 22, 1968,[4] the House was considering the conference report on S. 5, the Consumer Credit Protection Act, when the following occurred:

> The conference report was agreed to.
>
> A motion to reconsider was laid on the table.
>
> MR. [WILLIAM T.] CAHILL [of New Jersey]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER:[5] The gentleman will state the parliamentary inquiry.
>
> MR. CAHILL: Mr. Speaker, would it be in order for a Member to move to rescind the action heretofore taken by the House?
>
> THE SPEAKER: A motion would not be in order. But it would be in order for a unanimous-consent request to be made. . . .
>
> MR. [WRIGHT] PATMAN [of Texas]: Mr. Speaker, I ask unanimous consent to vacate the proceedings by which the House adopted the conference report on the bill (S. 5) to assist in the promotion of economic stabilization by requiring the disclosure of finance charges in connection with extension of credit.
>
> THE SPEAKER: Is there objection to the request of the gentleman from Texas?

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[3] John W. McCormack (Mass.).

[4] 114 CONG. REC. 14396, 14398, 14402, 90th Cong. 2d Sess.

[5] John W. McCormack (Mass.).

Mr. [William L.] Hungate [of Missouri]: Mr. Speaker, reserving the right to object, all Members were notified this measure would be before the House today as the first order of business. This legislation has been before this body for 8 years. Objection should have been made before the vote was taken.

Mr. Speaker, I object.

The Speaker: Objection is heard.

§ 38.6 The Chairman of the Committee of the Whole allowed a unanimous-consent request to vacate the proceedings whereby an amendment was adopted, after he held out of order a motion to reconsider the vote by which that amendment was adopted.

On Mar. 12, 1945,(6) Mr. Brent Spence, of Kentucky, who was in charge of debate in the Committee of the Whole on H.R. 2023 (to continue the Commodity Credit Corporation), inadvertently permitted an amendment offered by Mr. Jesse P. Wolcott, of Michigan, to be adopted. Mr. Spence realized his mistake, and sought to have that proceeding reconsidered:

Mr. Spence: Mr. Chairman, I move to reconsider the action of the Committee by which the amendment was agreed to.

The Chairman:(7) Such a motion is not in order in the Committee of the Whole.

Mr. Wolcott: Mr. Chairman a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Wolcott: Inasmuch as business has been transacted since the original request was submitted by the gentleman from Kentucky, would it be in order for me to propound a consent request that the proceedings by which the amendment was adopted be vacated?

The Chairman: Such a request would be in order, and the Chairman recognizes the gentleman for that purpose.

Mr. Wolcott: Then, Mr. Chairman, I ask unanimous consent that the proceedings by which the amendment was adopted reducing the amount from $5,000,000,000 to $4,000,000,000 be vacated. . . .

The Chairman: Is there objection to the request of the gentleman from Michigan?

There was no objection.

Motion for the Previous Question

§ 38.7 A motion to reconsider is debatable when a resolution [providing for the order of business] has been agreed to without debate and without the ordering of the previous question.

On Sept. 13, 1965,(8) after adoption of House Resolution 506 pro-

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6. 91 Cong. Rec. 2042, 2043, 79th Cong. 1st Sess.

7. R. Ewing Thomason (Tex.).

8. 111 Cong. Rec. 23608, 89th Cong. 1st Sess.

viding for consideration of H.R. 10065 (the Equal Employment Opportunity Act of 1965), the following discussion on the relationship between the motion to reconsider and the previous question took place:

Mr. [William M.] McCulloch [of Ohio]: Mr. Speaker, a parliamentary inquiry.

The Speaker:(9) The gentleman will state it.

Mr. McCulloch: Mr. Speaker, was the previous question ordered on the question to adopt the resolution that has just been voted on?

The Speaker: It was not.

Mr. McCulloch: Mr. Speaker, having voted in the affirmative, I now move that the vote by which House Resolution 506 was adopted be now reconsidered.

Mr. [Carl] Albert [of Oklahoma]: Mr. Speaker, I move that that motion be laid upon the table.

Mr. McCulloch: Mr. Speaker, I ask for the yeas and nays.

The Speaker: The question is on the motion offered by the gentleman from Oklahoma [Mr. Albert].

Mr. [Melvin R.] Laird [of Wisconsin]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The Chair is in the process of counting.

Evidently a sufficient number have risen, and the yeas and nays are ordered.

Mr. Laird: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. Laird: Mr. Speaker, on the resolution just passed no one was allowed to debate that resolution on behalf of the minority or the majority. If this motion to table, offered by the gentleman from Oklahoma [Mr. Albert] is defeated, then there will be time to debate the resolution just passed.

The question of reconsideration is debatable, and it can be debated on the merits of the legislation which has not been debated by the House.

The Speaker: What part of the gentleman's statement does he make as a parliamentary inquiry?

Mr. Laird: Mr. Speaker, if the motion to table is defeated, the motion to reconsider will give us an opportunity to debate the question on the resolution.

The Speaker: Under the present circumstances, the motion to reconsider would be debatable.

§ 39. Scope and Application of Motion

Use in Committees

§ 39.1 A motion to reconsider may be used in a committee, when a quorum is present, to report out from that committee bills approved earlier that day in the absence of a quorum.

On July 9, 1956,(10) John L. McMillan, of South Carolina,

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9. John W. McCormack (Mass.).

10. 102 Cong. Rec. 12199, 12200, 84th Cong. 2d Sess.

Chairman of the Committee on the District of Columbia, called up for consideration H.R. 4697, to amend the Alcoholic Beverage Control Act of the District of Columbia. Mr. Albert P. Morano, of Connecticut, rose to a point of order:

> **Mr. Morano**: Mr. Speaker, I make the point of order against the consideration of this bill on the ground that when the committee considered this bill there was not a quorum present to report it to the House.
>
> **Mr. [Howard W.] Smith** of Virginia: Mr. Speaker, may I be recognized on the point of order?
>
> **The Speaker**:(11) Yes.
>
> **Mr. Smith** of Virginia: Mr. Speaker, there is great difficulty, it is true, in getting a quorum of the District Committee, but I was personally present when this bill was voted out, and there was a quorum of the committee present. And, in order to be sure that there was no such question as this raised on the floor of the House, I myself made a motion, when a quorum was present, to reconsider all of the bills that had been considered and voted them out again, which was done.
>
> **The Speaker**: Does the chairman of the Committee of the District of Columbia desire to be heard on the point of order?. . .
>
> **Mr. McMillan**: Mr. Speaker, the statement made by the gentleman from Virginia [Mr. Smith] is correct. . . .
>
> **The Speaker**: The Chair must know whether the gentleman says that there was a quorum present or not, to his knowledge.
>
> **Mr. McMillan**: Mr. Speaker, there was a quorum present part of the time and part of the time there was not.
>
> **The Speaker**: That is not an answer to the query of the Chair.
>
> **Mr. [Sidney E.] Simpson** of Illinois: Mr. Speaker, would the gentleman yield?
>
> **Mr. Smith** of Virginia: I yield.
>
> **Mr. Simpson** of Illinois: I will say for the benefit of the House that I was at the committee meeting when the gentleman from Virginia [Mr. Smith] brought up the point of no quorum; and there was a quorum present.
>
> **The Speaker**: That is what the Chair is trying to ascertain from the chairman of the committee.
>
> **Mr. McMillan**: That is correct.
>
> **The Speaker**: That is the point that is involved here.
>
> **Mr. McMillan**: The gentleman from Virginia [Mr. Smith] made that motion and there was a quorum present.
>
> **Mr. Morano**: Mr. Speaker, I press my point of order. I would like to know whether or not there was a quorum present when this bill was reported, not when the gentleman from Virginia made his motion.
>
> **The Speaker**: The chairman of the legislative committee has just stated to the Chair that there was a quorum present when this bill was reported. The Chair is going to take the word of the chairman of the committee, because that is according to the rules and practices of the House.
>
> **Mr. Morano**: Mr. Speaker, I understood the chairman to say that when the gentleman from Virginia [Mr. Smith] made his motion there was a

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11. Sam Rayburn (Tex.).

quorum present. But I did not understand the chairman of the committee to say that when this bill was reported there was a quorum present.

THE SPEAKER: The Chair is going to ask the gentleman from South Carolina [Mr. McMillan] that question now.

MR. MCMILLAN: Mr. Speaker, when the gentleman from Virginia made his motion he stated that he wanted all bills that were considered that day passed with a quorum present.

THE SPEAKER: The Chair is going to ask the gentleman again if a quorum was present, to his certain knowledge, when this bill was reported.

MR. MCMILLAN: There was not when this bill was passed.

MR. MORANO: Mr. Speaker, I insist on my point of order.

MR. SMITH of Virginia: Mr. Speaker, I should like to be heard further, because I think it is important to straighten this question out.

THE SPEAKER: It is.

MR. SMITH of Virginia: Not from the standpoint of this bill, but as a parliamentary question. Frequently bills are discussed and voted upon when a quorum is not present. It is the custom, at the conclusion of the discussion, when a quorum is present, to move a reconsideration of all the bills that have been passed, and to move to report them out. That is what was done in this matter. I think it is important for the House to know just how strict this rule is and how it is to be applied, because I think every bill that was passed upon this morning came here under the same conditions as this bill.

MR. SIMPSON of Illinois: Mr. Speaker, will the gentleman yield?

MR. SMITH of Virginia: I yield.

MR. SIMPSON of Illinois: Mr. Speaker, I wish to verify what Judge Smith is saying. That was exactly the procedure in this matter in the House Committee on the District of Columbia.

MR. SMITH of Virginia: On this proceeding of the committee, I think we ought to be straightened out on it for the future.

THE SPEAKER: This has come up many times and it has always been decided by the Chair on the statement of the chairman of the legislative committee concerned. The gentleman from South Carolina said that when this bill was reported there was not a quorum present. Is the Chair quoting the gentleman from South Carolina correctly?

MR. MCMILLAN: That is correct, Mr. Speaker.

MR. SMITH of Virginia: That really is not the question I am trying to get determined for the benefit of the House and other committees. It is true, I believe, there was not a quorum present when any one of these bills was considered, but before the session adjourned a quorum did appear, and then a blanket motion was made to reconsider all of the bills that had previously been passed upon and to vote them out, which motion was carried. May I ask the chairman of the committee if that is a correct statement of what occurred?

MR. MCMILLAN: That is correct.

THE SPEAKER: A quorum was present at that time?

MR. SMITH of Virginia: At that time a quorum was present. That was the reason the motion was made. That is the only way we can operate in that committee, I might add.

Mr. [Henry O.] Talle [of Iowa]: Mr. Speaker, may I say as a member of the District Committee that I was present at the meeting. The gentleman from Virginia [Mr. Smith] has recorded the proceedings accurately.

Mr. Morano: There is obviously a contradiction here, Mr. Speaker. The chairman of the committee said there was not a quorum present when this bill was considered. The issue before the Speaker, as I understand it, is a ruling on this bill, not on other bills that were considered en bloc.

The Speaker: That is correct, but the gentleman from South Carolina said that on the last action on the bill in the committee a quorum was present.

The Chair under the circumstances must overrule the point of order made by the gentleman from Connecticut.

§ 39.2 A point of order against one motion to reconsider the actions whereby a committee reported out several bills in the absence of a quorum should be made in the committee and not in the House.

On July 9, 1956,(12) Mr. John L. McMillan, of South Carolina, called up H.R. 4697, to amend the Alcoholic Beverage Control Act of the District of Columbia of 1954. Mr. Albert P. Morano, of Connecticut, raised a point of order against the consideration of this bill on the ground that the Committee on the District of Columbia had considered this bill in the absence of a quorum. A dialogue ensued and established the following facts: The committee adopted this and several other bills in the absence of a quorum; however, before the committee adjourned a quorum appeared, and a motion was then adopted to reconsider all the bills which had been approved in the absence of a quorum and report them to the House. The Speaker thereupon overruled the point of order. Mr. John Taber, of New York, then posed a parliamentary inquiry.

Mr. Taber: Mr. Speaker, is it proper to consider by a single vote a reconsideration of the votes by which several bills have been reported, and then make a single omnibus motion by which all those bills that have been so reconsidered would be reported?

The Speaker:(13) If, as seems to be true in this instance, no point of order was made, then the action of the committee is presumed to have been in accordance with parliamentary procedure of the House of Representatives.

Mr. Taber: Mr. Speaker, the thing that would occur to me with reference to that is that if it may be that an omnibus motion is made to report bills that instead of the bills being considered on their merits and by themselves separately, it would be very unfortunate for us to treat bills in that way.

The Speaker: Of course, if any point was made in the committee, they

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12. 102 Cong. Rec. 12199, 12200, 84th Cong. 2d Sess.

13. Sam Rayburn (Tex.).

would be compelled to consider them separately. But if no point was made, it is assumed that the committee was acting in proper parliamentary fashion.

Application to Motion to Table

§ 39.3 A motion to reconsider may be applied to a vote on a motion to lay on the table (except to a vote to table another motion to reconsider).

On Oct. 9, 1968,(14) the House had adopted a motion offered by Mr. Carl Albert, of Oklahoma, to table an appeal from a decision of the Chair sought by Mr. Robert Taft, Jr., of Ohio. The following then occurred:

> MR. [CRAIG] HOSMER [of California]: Mr. Speaker, I offer a privileged motion.
>
> THE SPEAKER:(15) The gentleman from California will state his privileged motion.
>
> MR. HOSMER: Mr. Speaker, I move to reconsider the vote on the motion to lay the appeal from the Chair on the table.
>
> MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I move that the motion be laid on the table.
>
> THE SPEAKER: The gentleman from California moves to reconsider the vote on the motion to lay the appeal from the decision of the Chair on the table, and the gentleman from Oklahoma moves that that motion be laid on the table. . . .
>
> The question is on the motion offered by the gentleman from Oklahoma [Mr. Albert], that the motion to reconsider be laid on the table.
>
> The question was taken; and there were—yeas 135, nays 104, not voting 191, as follows: . . .
>
> So the motion to lay on the table was agreed to.
>
> The result of the vote was announced as above recorded.

Application to Conference Reports

§ 39.4 The House may reconsider the vote whereby a conference report was rejected.

The House may reconsider the vote on a conference report, as illustrated by the proceedings of May 5, 1943,(16) dealing with the War Overtime Pay Act of 1943.

> MR. [ROBERT] RAMSPECK [of Georgia]: Mr. Speaker, pursuant to rule 18, I call up for consideration the motion to reconsider the vote whereby the conference report on the bill (H.R. 1860) to provide for the payment of overtime compensation to Government employees, and for other purposes, was rejected. . . .
>
> THE SPEAKER:(17) . . . The question is: Will the House reconsider the vote whereby the conference report on the bill (H.R. 1860) to provide for the payment of overtime compensation to Government employees, and for other purposes, was rejected? . . .

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14. 114 CONG. REC. 30215, 30216, 90th Cong. 2d Sess.
15. John W. McCormack (Mass.).
16. 89 CONG. REC. 4001, 78th Cong. 1st Sess.
17. Sam Rayburn (Tex.).

The question recurs on the motion to reconsider.

The question was taken; and on a division (demanded by Mr. Vorys of Ohio) there were—ayes 169, noes 82.

So the motion to reconsider was agreed to.

The Speaker: The question is on agreeing to the conference report.

Mr. Ramspeck: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The Clerk called the roll; and there were—yeas 275, nays 119, not voting 40.

Application to Vote to Recommit

§ 39.5 The motion to reconsider has been applied to the vote whereby a conference report was recommitted.

On the legislative day of Dec. 20, 1963,(18) after the House voted to recommit the conference report on H.R. 9499 (foreign aid appropriations for 1964), the following occurred on the floor:

> **Mr. [Charles A.] Halleck** [of Indiana]: Mr. Speaker, a parliamentary inquiry.
>
> **The Speaker**:(19) The gentleman will state the parliamentary inquiry.
>
> **Mr. Halleck**: Mr. Speaker, was a motion to reconsider the vote just taken on the motion to recommit tabled?
>
> **The Speaker**: The Chair thanks the gentleman.
>
> A motion to reconsider the vote by which action was taken on the motion to recommit the conference report on H.R. 9499 making appropriations for foreign aid and related agencies for the fiscal year ending June 30, 1964, and for other purposes, was laid on the table.

§ 39.6 It is in order to reconsider the vote whereby the House recommitted a joint resolution to a committee.

On July 14, 1932,(20) after the House voted to recommit Senate Joint Resolution 169 (for relocation of the unemployed), a motion was entered to reconsider this vote.

> **Mr. [Luther A.] Johnson** of Texas: Mr. Speaker, I voted for the motion to recommit, and I make the motion to reconsider the vote by which the bill was recommitted, and spread that motion upon the Journal.
>
> **The Speaker**:(1) The gentleman from Texas . . . moves to reconsider the vote by which the Senate Joint Resolution was recommitted. The motion will be spread upon the Journal.

On July 16, 1932,(2) this motion was called up for consideration, and laid on the table.

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18. 109 Cong. Rec. 25423, 88th Cong. 1st Sess., Dec. 21, 1963 (Calendar Day).
19. John W. McCormack (Mass.).
20. 75 Cong. Rec. 15391, 72d Cong. 1st Sess.
1. John N. Garner (Tex.).
2. 75 Cong. Rec. 15725, 72d Cong. 1st Sess.

Mr. Johnson of Texas: Mr. Speaker, I call up my motion to reconsider the vote whereby Senate Joint Resolution 169 was recommitted to the Committee on Labor.

Mr. [Charles] Adkins [of Illinois]: Mr. Speaker, I move to lay that motion on the table.

The Speaker: The question is on the motion of the gentleman from Illinois.

The question was taken; and on a division (demanded by Mr. Connery), there were 147 ayes and 29 noes.

Mr. [William P.] Connery [Jr., of Massachusetts]: Mr. Speaker, I ask for the yeas and nays.

The Speaker: The gentleman from Massachusetts demands the yeas and nays. Eleven Members have arisen, not a sufficient number, and the yeas and nays are refused.

So the motion to lay the motion of Mr. Johnson of Texas on the table was agreed to.

Use of Motion to Vote on Motion to Expunge Remarks in Record

§ 39.7 The motion to reconsider may be used to reopen the proceedings whereby the House voted to expunge certain proceedings from the Congressional Record, including a speech made on the floor by a Member.

On Feb. 11, 1941,(3) the House agreed to a motion offered by Mr. John E. Rankin, of Mississippi, to expunge from the Record a speech made that day by Mr. Samuel Dickstein, of New York (criticizing the House Committee on Un-American Activities). A point of order raised by Mr. Clare E. Hoffman, of Michigan, against this speech and the Speaker's response thereto, both of which occurred during the speech, were also removed from the Record as a result of this motion. On Feb. 13, 1941,(4) Mr. Hoffman, who wished to have the alleged offensive speech and his point of order against it preserved in the Record, rose to a question of privilege of the House, contending that by expunging from the Record those proceedings of Feb. 11, the House had abridged the first amendment. He offered a resolution to have the expunged proceedings included in the Record. The issue was resolved in the following manner:

Mr. Hoffman: I raised a question of the privilege of the House. The House has not passed upon that question raised by the resolution.

The Speaker:(5) The House would have to decide that, and, in the opinion of the Chair, the House did decide the matter when it expunged the remarks from the Record. The Chair thinks, under the circumstances, that the proper way to reopen the question would be by a motion to reconsider the vote whereby the motion of the gentleman from Mississippi [Mr. Rankin] was adopted. The Chair is of the opinion that inasmuch as the question raised by the gentleman from Michigan was decided by a vote of the House on a proper motion, that he does not now present a question of privilege of the House or of personal privilege.

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(3) 87 Cong. Rec. 932, 933, 77th Cong. 1st Sess.

(4) *Id.* at pp. 979, 980.

(5) Sam Rayburn (Tex.).

Senate Practice

§ 39.8 A motion to reconsider its action in passing a House bill may be entered in the Senate; when this occurs, the Senate requests the House to return the papers.

On May 8, 1967,[6] the following occurred on the floor of the Senate:

> MR. [ALLEN J.] ELLENDER [of Louisiana]: Mr. President, I enter a motion to reconsider the vote by which the bill (H.R. 3399 to amend section 2 of Public Law 88-240) to extend the termination date for the Corregidor-Bataan Memorial Commission was passed on Thursday, May 4, 1967.
>
> THE PRESIDING OFFICER:[7] The motion will be entered and placed on the calendar.
>
> MOTION FOR HOUSE TO RETURN TO THE SENATE THE PAPERS ON H.R. 3399
>
> MR. ELLENDER: Mr. President, I move that the House of Representatives be requested to return to the Senate the papers on H.R. 3399, to amend section 2 of Public Law 88-240, to extend the termination date for the Corregidor-Bataan Memorial Commission.
>
> THE PRESIDING OFFICER: The motion will be stated.
>
> THE ASSISTANT LEGISLATIVE CLERK: The Senator from Louisiana [Mr. Ellender] moves that the House of Representatives be requested to return to the Senate the papers on H.R. 3399, to amend section 2 of Public Law 88-240, to extend the termination date for the Corregidor-Bataan Memorial Commission.
>
> THE PRESIDING OFFICER: The question is on agreeing to the motion of the Senator from Louisiana.
>
> The motion was agreed to.

Parliamentarian's Note: H.R. 3399, extending the termination date for the Corregidor-Bataan Memorial Commission, was adopted by the Senate on May 4, 1967. By the time the message arrived from the Senate on May 8, requesting the return of the papers to the Senate, the enrolled bill was on the Speaker's table awaiting his signature. After consultations with the Chairman of the Committee on Foreign Affairs, the Speaker withheld his signature until the chairman could ascertain the reason for the Senate's request and recommend appropriate action in response thereto.

§ 39.9 A motion to reconsider two Senate bills having been en-

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[6] 113 CONG. REC. 11868, 11918, 90th Cong. 1st Sess.

[7] Birch Bayh (Ind.).

tered, the Senate (by motion) requested the House to return the bills.

On Aug. 26, 1963,(8) a motion to reconsider certain votes was made on the floor of the Senate:

> Mr. [Michael J.] Mansfield [of Montana]: Mr. President, I enter a motion to reconsider the votes by which the bills, S. 1914 to incorporate the Catholic War Veterans of the United States of America, and S. 1942 to incorporate the Jewish War Veterans of the United States of America, were passed on August 20. . . .
>
> The President Pro Tempore:(9) The Senator has a right to enter the motion.
>
> Mr. Mansfield: Mr. President, I move that the House of Representatives be requested to return the papers on the bill S. 1914 to incorporate the Catholic War Veterans of the United States of America, and on the bill S. 1942, to incorporate the Jewish War Veterans of the United States of America.
>
> The President Pro Tempore: The question is on agreeing to the motion of the Senator from Montana. . . .
>
> The motion was agreed to.

Use in Committee of the Whole

§ 39.10 A motion to reconsider is not in order in the Committee of the Whole.

On May 24, 1967,(10) the Committee of the Whole was considering H.R. 7819, the Elementary and Secondary Education Act amendments of 1967. A motion regulating the time for debate had been approved when the following occurred:

> Mr. [Roman C.] Pucinski [of Illinois]: Mr. Chairman, a parliamentary inquiry.
>
> The Chairman:(11) The gentleman from Illinois will state his parliamentary inquiry.
>
> Mr. Pucinski: Mr. Chairman, is a motion to reconsider the last motion in order?
>
> The Chairman: The Chair will state to the gentleman from Illinois [Mr. Pucinski] that such motion is not in order in the Committee of the Whole.

§ 39.11 Where the Committee of the Whole has, by motion, agreed to limit debate on a pending amendment, a motion to reconsider its action is not in order.

On Aug. 5, 1966,(12) the Committee of the Whole was considering H.R. 14765, the Civil Rights Act of 1966, when Mr. William L. Dickinson, of Alabama, rose to a point of order:

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8. 109 Cong. Rec. 15849, 15850, 88th Cong. 1st Sess.
9. Carl Hayden (Ariz.).
10. 113 Cong. Rec. 13824, 90th Cong. 1st Sess.
11. Charles M. Price (Ill.).
12. 112 Cong. Rec. 18416, 89th Cong. 2d Sess.

Mr. Dickinson: Mr. Chairman, I have a point of order.

The Chairman:(13) The gentleman will state his point of order.

Mr. Dickinson: Mr. Chairman, if I understand correctly, we were granted 2 hours in which to submit amendments. One hour and 45 minutes has been used up. We have 15 minutes remaining. Did the Chair just rule that it would be inappropriate, and this Committee would be unable to reconsider, the fixing of this time? Was that the ruling of the Chair?

The Chairman: A motion to reconsider is not in order in the Committee of the Whole.

§ 39.12 A request to reconsider a vote on an amendment is not in order in the Committee of the Whole, even by unanimous consent.

On Dec. 4, 1963,(14) the Committee of the Whole was considering H.R. 6196—on the revitalization of cotton industry—when the following took place:

Mr. [Robert J.] Dole [of Kansas]: Mr. Chairman, a parliamentary inquiry.

The Chairman:(15) The gentleman will state it.

Mr. Dole: Mr. Chairman, would it now be in order to reconsider by unanimous consent the amendment I previously offered?

The Chairman: A motion to reconsider is not in order in the Committee of the Whole.

§ 39.13 The Chairman of the Committee of the Whole held out of order a motion to reconsider the vote by which an amendment was adopted, but allowed a unanimous-consent request to vacate the proceedings whereby that amendment was adopted.

On Mar. 12, 1945,(16) while Mr. Brent Spence, of Kentucky, was controlling debate in the Committee of the Whole on H.R. 2023 (to continue the Commodity Credit Corporation) he inadvertently permitted adoption of an amendment offered by Mr. Jesse P. Wolcott, of Michigan. Upon realizing his mistake, Mr. Spence sought to reconsider the vote on this amendment, and the following occurred:

Mr. Spence: Mr. Chairman, I move to reconsider the action of the Committee by which the amendment was agreed to.

The Chairman:(17) Such a motion is not in order in the Committee of the Whole.

Mr. Wolcott: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

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13. Richard Bolling (Mo.).
14. 109 Cong. Rec. 23322, 88th Cong. 1st Sess.
15. John J. Rooney (N.Y.).
16. 91 Cong. Rec. 2042, 2043, 79th Cong. 1st Sess.
17. R. Ewing Thomason (Tex.).

Mr. Wolcott: Inasmuch as business has been transacted since the original request was submitted by the gentleman from Kentucky, would it be in order for me to propound a consent request that the proceedings by which the amendment was adopted be vacated?

The Chairman: Such a request would be in order, and the Chair recognizes the gentleman for that purpose.

Mr. Wolcott: Then, Mr. Chairman, I ask unanimous consent that the proceedings by which the amendment was adopted reducing the amount from $5,000,000,000 to $4,000,000,000 be vacated. . . .

The Chairman: Is there objection to the request of the gentleman from Michigan?

There was no objection.

Question of Consideration

§ 39.14 It is not in order to reconsider the vote whereby the House has declined to consider a proposition (since the question of consideration can be raised again at a subsequent time).

On Apr. 7, 1937,[18] the issue before the House was whether to consider H.R. 2251, an antilynching bill:

Mr. [Hamilton] Fish [Jr., of New York]: Mr. Speaker, I raise the question of consideration.

The Speaker:[1] The gentleman from New York raises the question of consideration.

The question is, will the House consider the bill (H.R. 2251) to assure to persons within the jurisdiction of every State the equal protection of the laws, and to punish the crime of lynching? . . .

The question was taken; and there were—yeas 123, nays 257, not voting 50, as follows: . . .

So the House refused to consider the bill. . . .

Mr. Fish: Mr. Speaker, I move to reconsider the vote by which the House refused to consider the bill and lay that motion on the table.

The Speaker: The Chair thinks that the motion is not in order on a vote of this character.

Second Motion

§ 39.15 After a motion to reconsider has been laid on the table a second motion to reconsider is not in order.

On June 20, 1967,[2] the House had just adopted H.R. 10480, to prohibit desecration of the flag, when confusion arose as to the effect of House action on amendments reported out by the Committee of the Whole. Mr. Theodore R. Kupferman, of New York, stated that his vote had been based on a misconception of the exact wording of the bill, and raised the following parliamentary inquiry:

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[18] 81 Cong. Rec. 3252–54, 75th Cong. 1st Sess.

[1] William B. Bankhead (Ala.).

[2] 113 Cong. Rec. 16497, 16498, 90th Cong. 1st Sess.

> **Mr. Kupferman**: Mr. Speaker, may I ask is it in order for reconsideration of the vote on the ground that there was a misconception at the time of the vote?
>
> **The Speaker**:(3) The Chair will reply to the gentleman from New York that a motion to reconsider was laid on the table and that a motion to reconsider at this point is not in order.

§ 39.16 After one motion to reconsider has been acted on, a second motion to reconsider is not in order.

On May 6, 1964,(4) the Senate rejected amendments proposed by Senator Thruston B. Morton, of Kentucky, to amendments offered by Senator Herman E. Talmadge, of Georgia, to H.R. 7152, the Civil Rights Act of 1963. Senator Everett M. Dirksen, of Illinois, moved to reconsider the vote on the Morton amendments, with the following results:

> **The Acting President Pro Tempore**:(5) The question is on agreeing to the motion to reconsider the vote by which the Morton amendments to the Talmadge amendments were rejected. . . .
>
> The results was announced—yeas 46, nays 45, as follows: . . .
>
> So the motion to reconsider the vote by which the Morton amendments to the Talmadge amendments were rejected was agreed to.
>
> **The Acting President Pro Tempore**: The question now is on agreeing to the amendments, of the Senator from Kentucky [Mr. Morton] to the Talmadge amendments. . . .
>
> The legislative clerk proceeded to call the roll. . . .
>
> The result was announced—yeas 45, nays 46, as follows: . . .
>
> So Mr. Morton's amendments to the amendments of Mr. Talmadge were rejected.
>
> **Mr. Dirksen**: Mr. President, I move to reconsider the vote.
>
> **The Acting President Pro Tempore**: The motion is not in order.

§ 40. Precedence of Motion

Vote Recapitulation and Motion to Reconsider

§ 40.1 A demand for recapitulation takes precedence over a motion to reconsider.

On May 6, 1964,(6) the Senate defeated by a tie vote several amendments to H.R. 7152, the Civil Rights Act of 1963. Mr. Everett M. Dirksen, of Illinois, sought to have this vote reconsidered.

> **The Acting President Pro Tempore**:(7) The vote being 45 yeas and 45

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3. John W. McCormack (Mass.).
4. 110 Cong. Rec. 10201-03, 88th Cong. 2d Sess.
5. Lee Metcalf (Mont.).
6. 110 Cong. Rec. 10200, 10201, 88th Cong. 2d Sess.
7. Lee Metcalf (Mont.).

nays, the Morton amendments to the Talmadge amendments are rejected.

SEVERAL SENATORS: No, no, no.

MR. DIRKSEN: Mr. President, I move that the Senate reconsider the vote by which the Morton amendments to the Talmadge amendments were rejected.

THE ACTING PRESIDENT PRO TEMPORE: The question is on agreeing to the motion to reconsider.

MR. [RICHARD B.] RUSSELL [of Georgia]: Mr. President, I demand a recapitulation of the vote.

THE ACTING PRESIDENT PRO TEMPORE: The Senator is entitled to have that done, and there will be a recapitulation. The clerk will call the names for the recapitulation.

The legislative clerk recapitulated the vote.

§ 41. Debate on Motion

When Motion is Debatable

§ 41.1 The motion to reconsider is debatable if the motion proposed to be reconsidered was debatable.

On Sept. 13, 1965,(8) the House adopted House Resolution 506, providing for consideration of H.R. 10065, the Equal Employment Opportunity Act of 1965. There then occurred the discussion below, which suggests the circumstances under which a motion to reconsider may be debated:

MR. [WILLIAM M.] McCULLOCH [of Ohio]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER:(9) The gentleman will state it.

MR. McCULLOCH: Mr. Speaker, was the previous question ordered on the question to adopt the resolution that has just been voted on?

THE SPEAKER: It was not.

MR. McCULLOCH: Mr. Speaker, having voted in the affirmative. I now move that the vote by which House Resolution 506 was adopted be now reconsidered.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I move that that motion be laid upon the table.

MR. McCULLOCH: Mr. Speaker, I ask for the yeas and nays.

THE SPEAKER: The question is on the motion offered by the gentleman from Oklahoma [Mr. Albert].

MR. [MELVIN R.] LAIRD [of Wisconsin]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The Chair is in the process of counting.

Evidently a sufficient number have risen, and the yeas and nays are ordered.

MR. LAIRD: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state has parliamentary inquiry.

MR. LAIRD: Mr. Speaker, on the resolution just passed no one was allowed to debate that resolution on behalf of the minority or the majority. If this motion to table, offered by the gentlemen from Oklahoma [Mr. Albert] is defeated, then there will be time to debate the resolution just passed.

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(8) 111 CONG. REC. 23608, 89th Cong. 1st Sess.

(9) John W. McCormack (Mass.).

The question of reconsideration is debatable, and it can be debated on the merits of the legislation which has not been debated by the House.

The Speaker: What part of the gentleman's statement does he make as a parliamentary inquiry?

Mr. Laird: Mr. Speaker, if the motion to table is defeated, the motion to reconsider will give us an opportunity to debate the question on the resolution.

The Speaker: Under the present circumstances, the motion to reconsider would be debatable.

Mr. Laird: I thank the Speaker.

Mr. McCulloch: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. McCulloch: Mr. Speaker, what time woud be allowed to debate the question and how would it be divided?

The Speaker: It will be under the 1-hour rule and the gentleman from Ohio would be entitled to the control of the entire hour.

The Chair will restate the question on which the yeas and nays have been demanded and ordered.

The question is on the motion of the gentleman from Oklahoma [Mr. Albert] to lay on the table the motion to reconsider.

The question was taken; and there were—yeas 194, nays 181, not voting 57.

Senate Practice

§ 41.2 A Motion to reconsider is debatable under Senate rules.

During the Senate debate of May 6, 1964,(10) on H.R. 7152 (Civil Rights Act of 1963), Mr. Everett M. Dirksen, of Illinois, sought reconsideration of a tie vote on certain amendments and raised the following parliamentary inquiry:

Mr. Dirksen: Mr. President, a parliamentary inquiry.

The Acting President Pro Tempore:(11) The Senator will state it.

Mr. Dirksen: A motion to reconsider is a debatable motion, is it not?

The Acting President Pro Tempore: The Senator is correct.

Mr. Dirksen: So any Senator who wishes to discuss the motion to reconsider is at liberty to do so upon recognition?

The Acting President Pro Tempore: The Senator is correct. The Senator from Illinois has the floor.

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10. 110 Cong. Rec. 10201–03, 88th Cong. 2d Sess.
11. Lee Metcalf (Mont.).

G. UNANIMOUS-CONSENT REQUESTS

§ 42. In General; Effect

The unanimous-consent request is a procedural device that is available both in the House and Committee of the Whole.(12) The limitations on the application of unanimous-consent requests are primarily those imposed by the presiding officer in the exercise of his discretionary power to recognize Members.(13) However, in at least one circumstance the Speaker is proscribed by rule from entertaining certain unanimous-consent requests.(14) Also, unanimous consent may not be requested in the Committee of the Whole on matters properly recognizable only in the House.(15)

When a unanimous-consent request has been made, any Member, including the Chair,(16) may object. The objection terminates the request.(17)

A Member may reserve the right to object to a unanimous-consent request and by so doing obtains the floor. However, the Chair may refuse to permit debate under the reservation and put the question on the request.(1) A Member controlling the floor under a reservation of the right to object loses the floor if the request is withdrawn.(2) The reservation of the right to object cannot be maintained if the regular order is demanded; in that case the reserving Member must either object or withdraw his reservation.(3)

§ 43. Stating the Request; Withdrawal

Stating the Request

§ 43.1 The Speaker's statement of a unanimous-consent request as put to the House is controlling, and he may refuse to recognize an objection to the request made prior to such statement.

On Sept. 4, 1940,(4) the following occurred after a divisive personal exchange between Mr. Martin L. Sweeney, of Ohio, and Mr. Beverly M. Vincent, of Kentucky:

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12. See, generally, § 47, infra.
13. See, generally, §§ 44, 48, infra.
14. Rule XXXII clause 1, *House Rules and Manual* § 919 (1981). See also §§ 47.5, 47.6, infra.
15. §§ 48.15, 48.16, infra.
16. §§ 45.4, 45.5, infra.
17. § 45.6, infra.

1. §§ 46.1, 46.2, infra.
2. § 46.4, infra.
3. § 46.6, infra.
4. 86 Cong. Rec. 11516, 11517, 76th Cong. 3d Sess.

Mr. Vincent of Kentucky: Mr. Speaker, I served in the World War, and the Warld War, as I understand it then and as I understand it now, was fought because we were being attacked by submarines and women and children were being murdered on the high seas. For the gentleman from Ohio [Mr. Sweeney] to say that President Wilson brought on that war to me was untrue and the whole statement the gentleman made I resented very much.

When he finished his speech he started to sit down by me. I got up and moved. I shall continue to refuse to sit by him as long as I am a Member of the Congress and he is a Member. When he sat down by me I got up and moved. I said I did not want to sit by a traitor to my country. . . .

Mr. [Clare E.] Hoffman [of Michigan]: Mr. Speaker, I demand recognition on a point of order.

The Speaker Pro Tempore:(5) The gentleman will state it.

Mr. Hoffman: Mr. Speaker, I demand that the words of the gentleman who just left the floor be taken down, because they violate the rules of the House.

The Speaker Pro Tempore: The Clerk will report the words complained of.

Mr. Vincent of Kentucky: Mr. Speaker, I ask unanimous consent to withdraw the last sentence of my statement.

Mr. [Henry C.] Dworshak [of Idaho]: I object, Mr. Speaker.

The Speaker Pro Tempore: The gentleman from Kentucky asks unanimous consent to withdraw the statement. Is there objection? The Chair hears none.

Mr. [Frederick V.] Bradley of Michigan: I object, Mr. Speaker. . . .

PARLIAMENTARY INQUIRY

Mr. Hoffman: Mr. Speaker, a point of order and a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Hoffman: Mr. Speaker, a moment ago certain words were uttered by the gentleman on the floor of the House which I demanded be taken down. No report was made of those words. I demand the regular order—the taking down of the words, and the reading by the Clerk.

The Speaker Pro Tempore: Subsequently, unanimous consent was granted for the words to be withdrawn.

Mr. Hoffman: Oh, no, Mr. Speaker; three Members were on their feet. I was one of them, and objecting to that.

The Speaker Pro Tempore: That was the ruling of the Chair.

Requests Put in the Alternative

§ 43.2 The Speaker does not entertain unanimous-consent requests put in the alternative, but requires the Member to put the requests one at a time.

On Oct. 31, 1963,(6) a dispute arose between Mr. Edgar Franklin Foreman, of Texas, and Mr. Henry B. Gonzalez, also of Texas. The Speaker, John W. McCormack, of Massachusetts, ruled

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5. Jere Cooper (Tenn.).

6. 109 Cong. Rec. 20744, 20745, 88th Cong. 1st Sess.

that the use of certain words contained in the remarks of Mr. Foreman were not in order under the rules of the House. Mr. Bruce R. Alger, of Texas, then rose with a parliamentary inquiry:

> Mr. Alger: My parliamentary inquiry, Mr. Speaker, is this: Mr. Speaker, I ask unanimous consent that after deleting the objectionable words that the gentleman be permitted to proceed or at least insert his remarks at this point in the Record.
>
> The Speaker: The gentleman has put two propositions, one to proceed or to extend his remarks in the Record. Which unanimous-consent request does the gentleman want the Chair to put first?
>
> Mr. Alger: Mr. Speaker, first, that the gentleman be permitted to proceed in order.
>
> The Speaker: Is there objection to the request of the gentleman from Texas?
>
> Mr. [John J.] Rooney of New York: . . . I object.
>
> The Speaker: The objection is heard.

Individual Requests and Legislative Requests Distinguished

§ 43.3 The Speaker announced that he would recognize Members to make individual unanimous-consent requests prior to recognizing Members for unanimous-consent requests relating to legislative business.

On Oct. 5, 1972,(7) the Speaker, Carl Albert, of Oklahoma, made the following announcement:

> The Chair is going to recognize Members who have individual unanimous-consent requests.
>
> The Chair cannot determine, when a Member rises, whether he has a legislative purpose for rising or whether he has a unanimous-consent request to make and desires something to be put into the Record.
>
> After that, the Chair will recognize any Member who has a unanimous-consent request in connection with business.

Withdrawal of Request

§ 43.4 Unanimous consent is not required to withdraw a unanimous-consent request in the House.

On Mar. 14, 1968,(8) the House was considering H.R. 2516, providing penalties for interference with certain civil rights (with a Senate amendment containing further civil rights legislation, including open housing). Mr. Emanuel Celler, of New York, requested unanimous consent that the reading of the Senate amendment be dispensed with. Mr. H. R. Gross, of Iowa, and Mr. Joe D. Waggonner, Jr., of Louisiana, both

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7. 118 Cong. Rec. 34039, 92d Cong. 2d Sess.

8. 114 Cong. Rec. 6474–80, 6489–92, 90th Cong. 2d Sess.

reserved the right to object. The Speaker, John W. McCormack, of Massachusetts, then recognized Mr. Celler.

> Mr. Speaker, I ask unanimous consent to withdraw my request.
>
> THE SPEAKER: It does not require unanimous consent.(9)

§ 44. Recognizing Members for Requests

Grounds for Refusal to Recognize

§ 44.1 The Speaker may decline to recognize for a unanimous-consent request for the consideration of a bill until the Member making such request consults with the Speaker and the Majority and Minority Leaders.

On July 11, 1946,(10) Mrs. Clare Boothe Luce, of Connecticut, made the following request from the floor of the House:

> . . . Mr Speaker, I ask unanimous consent to consider immediately the Wolcott bill (H.J. Res. 372) to reinstate rent control, which I send to the desk.
>
> THE SPEAKER:(11) Did the gentlewoman consult the Speaker about this and notify him that she was going to make this request?
>
> MRS. LUCE: I did not, Mr. Speaker.
>
> THE SPEAKER: The Chair refuses to recognize the gentlewoman for that purpose. . . .
>
> The Chair desires to make a statement. For a long time, ever since 1937 at least, the present occupant of the chair knows that when Members intend to ask unanimous consent to bring up a bill they have always properly consulted with both the majority and minority leaders of the House and with the Speaker. That has been the unfailing custom. The Chair is exercising that right and intends to continue to exercise it as long as he occupies the present position because the Chair wants the House to proceed in an orderly fashion.

Recognition of Committee Chairmen

§ 44.2 The Speaker, in response to a parliamentary inquiry, indicated that only the chairman of a committee having jurisdiction of the subject matter of the bill would be recognized to ask unanimous consent to take it from the Speaker's table, disagree to the Senate amendment and ask for a conference.

On the legislative day of Aug. 31, 1960,(12) Mr. Charles A.

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(9) See also 110 CONG. REC. 2614, 2615, 88th Cong. 2d Sess., Feb. 8, 1964.

(10) 92 CONG. REC. 8726, 8728, 79th Cong. 2d Sess.

(11) Sam Rayburn (Tex.).

(12) 106 CONG. REC. 18920, 86th Cong. 2d Sess., Sept. 1, 1960 (Calendar Day).

Halleck of Indiana, was recognized to offer a parliamentary inquiry:

> MR. HALLECK: Would it be in order for a unanimous-consent request to be made to send the bill that has just come from the Senate to conference?
>
> THE SPEAKER:(13) That would be up to the gentleman from North Carolina [Mr. Cooley].(14)

Recognition Pending Motion to Suspend Rules

§ 44.3 The Speaker declined to recognize a request for unanimous consent during consideration of a motion to suspend the rules.

On July 21, 1947,(15) the following occurred on the floor of the House:

> MR. [RALPH A.] GAMBLE [of New York]: Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 29) making unlawful the requirement for the payment of a poll tax as a prerequisite to voting in a primary or other election for national officers.

After the House defeated a motion to adjourn and after the Speaker ruled out as dilatory a point of no quorum, the following occurred:

> MR. [TOM] PICKETT [of Texas]: Mr. Speaker, I ask unanimous consent——
>
> THE SPEAKER:(16) The Chair will refuse to entertain any unanimous-consent requests until after the vote on this bill.

§ 45. Objecting to Requests

Rising to Object

§ 45.1 When objecting to a unanimous-consent request a Member must rise from his seat.

On Feb. 20, 1946,(17) the House was considering H.R. 3370, the school lunch program, when the following occurred:

> THE CHAIRMAN:(18) The time of the gentleman from Texas has expired.
>
> MR. [WILLIAM R.] POAGE [of Texas]: Mr. Chairman, I ask unanimous consent to proceed for five additional minutes.
>
> THE CHAIRMAN: Is there objection to the request of the gentleman from Texas?
>
> MR. [WILLIAM J.] GALLAGHER [of Minnesota]: Mr. Chairman, I object.
>
> MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, a point of order.
>
> THE CHAIRMAN: The gentleman will state it.
>
> MR. RANKIN: To make an objection a Member has to rise to object.

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13. Sam Rayburn (Tex.).
14. Mr. Cooley was Chairman of the Committee on Agriculture during the 86th Congress.
15. 93 CONG. REC. 9522–51, 80th Cong. 1st Sess.
16. Joseph W. Martin, Jr. (Mass.).
17. 92 CONG. REC. 1500, 79th Cong. 2d Sess.
18. Henry M. Jackson (Wash.).

The Chairman: The point of order is well taken.

Time for Objection

§ 45.2 An objection to a unanimous-consent request is properly made to the request put by the Chair, not as put by the Member making the request.

On Sept. 4, 1940,(1) Mr. Beverly M. Vincent, of Kentucky, and Mr. Martin L. Sweeney, of Ohio, became engaged in an acrimonious personal debate; Mr. Vincent sought to withdraw a remark in which he referred to Mr. Sweeney as a traitor:

> Mr. Vincent of Kentucky: Mr. Speaker, I ask unanimous consent to withdraw the last sentence of my statement.
>
> Mr. [Henry C.] Dworshak [of Idaho]: I object, Mr. Speaker.
>
> The Speaker Pro Tempore:(2) The gentleman from Kentucky asks unanimous consent to withdraw the statement. Is there objection? The Chair hears none.

§ 45.3 It is too late to object to a unanimous-consent request after the Chair has asked if there is objection and has announced that he hears none.

On Sept. 4, 1940,(3) Mr. Beverly M. Vincent, of Kentucky, sought unanimous consent to withdraw part of a statement he made about Mr. Martin L. Sweeney, of Ohio.

> The Speaker Pro Tempore:(4) The gentleman from Kentucky asks unanimous consent to withdraw the statement. Is there objection? The Chair hears none.
>
> Mr. [Frederick V.] Bradley of Michigan: I object, Mr. Speaker.

Subsequently Mr. Clare E. Hoffman, of Michigan, rose with a point of order.

> Mr. Hoffman: Mr. Speaker, a point of order and a parliamentary inquiry.
>
> The Speaker Pro Tempore: The gentleman will state it.
>
> Mr. Hoffman: Mr. Speaker, a moment ago certain words were uttered by the gentleman on the floor of the House which I demanded be taken down. No report was made of those words. I demand the regular order—the taking down of the words, the report of the words, and the reading by the Clerk.
>
> The Speaker Pro Tempore: Subsequently, unanimous consent was granted for the words to be withdrawn.
>
> Mr. Hoffman: Oh, no, Mr. Speaker; three Members were on their feet. I was one of them, and objecting to that.
>
> The Speaker Pro Tempore: That was the ruling of the Chair.

§ 45.4 The Chair may decline to recognize a Member seeking unanimous consent where that Member rejects the Chair's sug-

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(1) 86 Cong. Rec. 11516, 11517, 76th Cong. 3d Sess.

(2) Jere Cooper (Tenn.).

(3) 86 Cong. Rec. 11516, 11517, 76th Cong. 3d Sess.

(4) Jere Cooper (Tenn.).

gestion that the request be temporarily withheld.

On Dec. 15, 1937,(5) the Committee of the Whole was considering S. 2475, the wages and hours bill, when the following took place:

> MR. [SCHUYLER OTIS] BLAND [of Virginia]: Mr. Chairman, I ask unanimous consent that any substitute which may be offered for the pending bill and adopted shall, when adopted, be open to amendment as though it were the original bill.
>
> THE CHAIRMAN:(6) The Chair has already suggested to the gentleman from Tennessee [Mr. McReynolds], who propounded a similar unanimous-consent request, that the gentleman withhold temporarily his request.
>
> MR. BLAND: I prefer to submit mine now as to the offering of a substitute.
>
> THE CHAIRMAN: The Chair exercises the right of declining to recognize the gentleman for that purpose.

Objection by Presiding Officer

§ 45.5 A Chairman of the Committee of the Whole does not lose his right to object to a unanimous-consent request.

On Dec. 9, 1947,(7) the Chairman of the Committee of the Whole, Earl C. Michener, of Michigan, made the following statement:

> As the Chair understands the rule, the presiding officer in the Committee is in a dual capacity. First, he is selected to be the presiding officer during the consideration of the bill. But by accepting such appointment he does not lose his right to vote and object as any other Member. That is, his district is not deprived of its rights by virtue of the Chairman selection.

Effect of Objection; Withdrawal

§ 45.6 A unanimous-consent request does not remain pending after an objection thereto has been made; and the objecting Member cannot subsequently withdraw his objection so as to revive the request.

On Nov. 24, 1937,(8) the Speaker, William B. Bankhead, of Alabama, recognized Mr. Ralph E. Church, of Illinois, to propound a parliamentary inquiry:

> MR. CHURCH: Mr. Speaker, earlier in the day the majority leader asked unanimous consent that when the House adjourns today it adjourn to meet on Friday next. I reserved the right to object. Under my right to object I proceeded to make a short statement.

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5. 82 CONG. REC. 1571, 75th Cong. 2d Sess.
6. John W. McCormack (Mass.).
7. 93 CONG. REC. 11231, 80th Cong. 1st Sess.
8. 82 CONG. REC. 368, 75th Cong. 2d Sess.

THE SPEAKER: Will the gentleman please submit his parliamentary inquiry?

MR. CHURCH: I am submitting it. I made the reservation of objection for the purpose of making a short statement. Then someone called for the regular order, which forced me to object. I have been able since that time to make my statement, and now, Mr. Speaker, if I withdraw my objection, which I am willing to do, and now do, is it in order and will the request of the gentleman from Texas prevail?

THE SPEAKER: The Chair will state in answer to the inquiry of the gentleman that no request is now pending before the House to which he could object or not object.

§ 46. Reservation of Objection

Discretion of Chair

§ 46.1 Recognition for a reservation of objection to a unanimous-consent request is within the discretion of the Speaker, and sometimes he refuses to permit debate under such a reservation and immediately puts the question.

On Dec. 3, 1969,(9) the House was considering an extension of the Economic Opportunity Act of 1964. Mrs. Edith S. Green, of Oregon, had sought a special order permitting her to address the House for two hours, but the Speaker, John W. McCormack, of Massachusetts, informed her that she would have to limit her request to one hour.

MRS. GREEN of Oregon: Mr. Speaker, I am always cooperative with the Speaker of the House. I therefore ask unanimous consent that I be permitted to address the House for 1 hour after the close of business today.

MR. [ROMAN C.] PUCINSKI [of Illinois]: Mr. Speaker, reserving the right to object——

THE SPEAKER: The Chair will state that it will not recognize anyone else at this moment. Either the gentlewoman receives permission, or she does not.

Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

§ 46.2 Recognition for a reservation of objection to a unanimous-consent request is within the discretion of the Chair, who endeavors to protect the right of Members to make timely reservations, but who may also refuse to permit debate under such reservation and immediately put the question on the request.

On July 23, 1970,(10) the Committee of the Whole was consider-

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9. CONG. REC. (daily ed.), 91st Cong. 1st Sess.

10. 116 CONG. REC. 25620, 91st Cong. 2d Sess.

ing H.R. 18515, appropriations for the Departments of Labor and Health, Education, and Welfare for fiscal 1971. Mr. Daniel J. Flood, of Pennsylvania, sought unanimous consent to grant Mr. Robert N. Giaimo, of Connecticut, an additional five minutes of debate. Mr. John E. Moss, Jr., of California, attempted to reserve the right to object to the unanimous-consent request, and a discussion arose between Mr. Moss and the Chairman of the Committee of the Whole, Chet Holifield, of California, as to the timeliness of Mr. Moss' reservation of the right to object. The issue was resolved in the following manner:

The Chairman: If the gentleman insists that he was seeking to reserve the right to object, the Chair will again put the request.

Mr. Moss: I do so insist, Mr. Chairman.

The Chairman: Is there objection to the request of the gentleman?

Mr. Moss: Reserving the right to object——

The Chairman: The gentleman has already reserved the right to object.

Mr. Moss: That is correct. . . .

I want to state my point, if the Chair will permit it.

The Chairman: Reservations to object are entertained only in the prerogative of the Chair. The Chair does not recognize the gentleman from California, Mr. Moss, any further unless he objects.

Yielding Under a Reservation

§ 46.3 A Member holding the floor under a reservation of the right to object to a unanimous-consent request yielded to another Member who moved that the House adjourn.

On Sept. 22, 1965,(11) the House was considering a home rule bill for the District of Columbia, when the Speaker, John W. McCormack, of Massachusetts, announced pursuant to a call of the House that a quorum was present.

The Speaker: . . . Without objection, further proceedings under the call will be dispensed with.

Mr. [John D.] Dingell [of Michigan]: Mr. Speaker, I reserve the right to object.

The Speaker: The Chair has announced that without objection further proceedings under the call will be dispensed with.

Mr. Dingell: Mr. Speaker, I was on my feet at the time seeking recognition.

Mr. [Carl] Albert [of Oklahoma]: Mr. Speaker, I move that further proceedings under the call be dispensed with.

The Speaker: Without objection, it is so ordered.

Mr. Dingell: Mr. Speaker, I still reserve the right to object.

The Speaker: The gentleman from Michigan reserves the right to object.

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11. 111 Cong. Rec. 24716, 24717, 89th Cong. 1st Sess.

Mr. Dingell: Mr. Speaker, I wish to ask whether or not it is the intention of the leadership to adjourn.

Mr. Albert: Yes; we have only two or three unanimous-consent requests.

Mr. [Leslie C.] Arends [of Illinois]: Mr. Speaker, will the gentleman from Michigan yield to me?

Mr. Dingell: I yield.

Mr. Arends: Mr. Speaker, the gentleman from Michigan has yielded to me. I move that the House do now adjourn.

The Speaker: If the gentleman from Illinois will withhold that for a moment——

Mr. Arends: Mr. Speaker, the gentleman from Michigan has yielded to me.

The Speaker: I do not think the gentleman yielded for that purpose.

Does the gentleman from Michigan yield for that purpose?

Mr. Dingell: Yes, I do.

Mr. Arends: Mr. Speaker, I make the motion that the House do now adjourn.

The Speaker: The question is on the motion of the gentleman from Illinois.

Parliamentarian's Note: The Chair could have refused to recognize the Member to whom the floor was yielded under the reservation until the unanimous-consent request was disposed of. The motion to adjourn, being so highly privileged could have been made as a matter of right whether the unanimous-consent request were agreed to or disagreed to.

§ 46.4 A Member who reserves the right to object to a unanimous-consent request loses control of the floor when the request is withdrawn.

On Feb. 8, 1964,(12) the Committee on the Whole was considering H.R. 7152, the Civil Rights Act of 1963 when Mr. Carl Albert, of Oklahoma, sought unanimous consent to limit debate on title VII of the bill.

The Chairman:(13) Is there objection to the request of the gentleman from Oklahoma?

Mr. [William M.] Colmer [of Mississippi]: Mr. Chairman, reserving the right to object, and I am just one ordinary Member of this House, but I do have certain rights as one ordinary Member of the House, if I understand what was agreed upon originally, I am willing to abide by that agreement. . . .

Mr. [Wayne L.] Hays [of Ohio]: Mr. Chairman, will the gentleman yield to me?

Mr. Colmer: I yield to the gentleman from Ohio.

Mr. Hays: Mr. Chairman, I would like to propound a parliamentary inquiry. If the unanimous-consent request of the majority leader should be objected to, would not the majority leader or the chairman of the committee have a right to move that that be set and that the debate be ended at a specified time on Monday?

The Chairman: The Chair would say a motion to limit debate would be in

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12. 110 Cong. Rec. 2614, 2615, 88th Cong. 2d Sess.

13. Eugene J. Keogh (N.Y.).

> order after there has been debate on the title.
>
> Mr. Albert: Mr. Chairman, may I withdraw my unanimous-consent request and ask unanimous consent that the debate on title VII and all amendments thereto be limited to not exceeding 2 hours on Monday?
>
> Mr. [Clarence J.] Brown of Ohio: Mr. Chairman, reserving the right to object, I think it is about time I make a little comment on the whole matter.
>
> I opened the debate for our side of the aisle on this rule, and I explained it thoroughly. I thought at that time I had explained the agreement. I want to repeat that an agreement was made.
>
> Mr. Colmer: Mr. Chairman, will the gentleman yield for a parliamentary inquiry?
>
> Mr. Brown of Ohio: If it does not come out of my time.
>
> Mr. Colmer: Mr. Chairman, the majority leader made a unanimous-consent request. I reserved the right to object. Then the gentleman from Oklahoma, the majority leader, after some discussion, asked unanimous consent to withdraw his unanimous-consent request. I did not hear the Chair rule on the gentleman's request, therefore, I assume I still have the floor.
>
> The Chairman: The gentleman from Oklahoma withdrew his unanimous-consent request to which the gentleman from Mississippi had reserved the right to object. The gentleman from Oklahoma submitted a new unanimous-consent request to which the gentleman from Ohio [Mr. Brown] reserved the right to object.
>
> Mr. Brown of Ohio: The gentleman from Ohio has the floor?
>
> The Chairman: The gentleman from Ohio [Mr. Brown] has the floor.

Demand for Regular Order

§ 46.5 An objection cannot be reserved against a unanimous-consent request if the regular order is demanded.

On July 29, 1968,(14) Mr. Thaddeus J. Dulski, of New York, sought unanimous consent to take from the Speaker's table the bill H.R. 15387, relating to disciplinary action against employees of the postal field service. After brief discussion on Mr. Dulski's request, Mr. Wayne L. Hays, of Ohio, rose to his feet:

> Mr. Hays: Mr. Speaker, in view of the fact that the gentleman from Illinois is going to object, I demand the regular order.
>
> Mr. [Charles R.] Jonas [of North Carolina]: Mr. Speaker, reserving the right to object——
>
> The Speaker:(15) The gentleman from Ohio [Mr. Hays] has demanded the regular order. The regular order is, Is there objection to the request of the gentleman from New York?
>
> Mr. [Edward J.] Derwinski [of Illinois]: Mr. Speaker, in deference to the gentleman from Ohio, I will reserve my right to object.
>
> Mr. Jonas: Mr. Speaker, I reserve the right to object.
>
> The Speaker: The regular order has been demanded, and the Chair has no discretion.

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14. 114 Cong. Rec. 23935, 23936, 90th Cong. 2d Sess.
15. John W. McCormack (Mass.).

Is there objection to the request?

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Speaker, I object.

§ 46.6 Where a Member has reserved the right to object to a unanimous-consent request pending before the House and the regular order is demanded, further reservation of the right to object to that request is precluded and that Member must either object or permit the request to be granted.

On Feb. 4, 1971,(16) the following occurred on the floor of the House:

THE SPEAKER:(17) Is there objection to the request of the gentleman from Arkansas?

MR. [ANDREW] JACOBS [Jr., of Indiana]: Mr. Speaker, I reserve the right to object, and I do so because I want to reply to the statements made by the gentlewoman from Oregon.

MR. [WILBER D.] MILLS [of Arkansas]: Regular order, Mr. Speaker.

THE SPEAKER: Regular order has been demanded, and the regular order is, Is there objection to dispensing with the reading of the resolution?

MR. JACOBS: Mr. Speaker, reserving the right to object——

THE SPEAKER: The regular order has been demanded. The gentleman can either object or permit the request to be granted.

Is there objection to the request of the gentleman from Arkansas?

There was no objection.(18)

§ 47. Scope and Application of Request

Closing Debate on Unread Titles

§ 47.1 When a bill is being read by titles, debate may be closed on titles that have not been read by unanimous consent.

On Feb. 8, 1964,(1) the Committee of the Whole was considering the bill H.R. 7152, the Civil Rights Act of 1963, when a question arose concerning the time limit for debate on the bill:

MR. [WILLIAM M.] MCCULLOCH [of Ohio]: I should like to ask, Mr. Chairman, if the Committee of the Whole House on the State of the Union can now effect binding action as to time on the titles of the bill which we have not reached?

THE CHAIRMAN:(2) The Chair would inform the gentleman from Ohio that that could be done only by unanimous consent.

Reading of Amendment

§ 47.2 The reading of a substitute amendment in the Committee of the Whole may be dispensed with by unanimous consent.

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16. 117 CONG. REC. 1713, 92d Cong. 1st Sess.

17. Carl Albert (Okla.).

18. See also 109 CONG. REC. 10674, 88th Cong. 1st Sess., June 11, 1963.

1. 110 CONG. REC. 2614, 2615, 88th Cong. 2d Sess.

2. Eugene J. Keogh (N.Y.).

On May 4, 1960,(3) the Committee of the Whole was considering S. 722, the Area Redevelopment Act of 1960, when Mr. Silvio O. Conte, of Massachusetts, offered a substitute for the committee amendment to the bill. The reading of the amendment had begun when a Member rose to address the Chairman:

> **Mr. [Hale] Boggs** [of Louisiana] (interrupting the reading of the amendment): Mr. Chairman, I move that the further reading of the substitute amendment be dispensed with.
>
> **The Chairman:**(4) That motion is not in order. Unanimous consent is required to dispense with the further reading of the amendment.

Perfecting Previously Adopted Amendment

§ 47.3 It is in order by unanimous consent to offer a perfecting amendment to an amendment which has already been agreed to.

On Sept. 17, 1970,(5) the Committee of the Whole was considering H.R. 17654, the Legislative Reorganization Act of 1970, when the Chairman, William H. Natcher, of Kentucky, recognized Mr. H. Allen Smith, of California:

> **Mr. Smith** of California: Mr. Chairman, I move to strike the necessary number of words. . . .
>
> Mr. Chairman, I ask unanimous consent to return to page 39 of H.R. 17654, immediately below line 4, for the purpose of offering a perfecting amendment to the amendment offered by Mr. White which was adopted in this committee. . . .
>
> **The Chairman:** Is there objection to the request of the gentleman from California?
>
> There was no objection.

Nonprivileged Resolution

§ 47.4 A resolution increasing the number of Members on one of the standing committees of the House was called up by unanimous consent.

On Dec. 22, 1969,(6) Mr. Carl Albert, of Oklahoma, was recognized by the Speaker, John W. McCormack, of Massachusetts.

> **Mr. Albert:** Mr. Speaker, I offer a resolution (H. Res. 764) and ask for its immediate consideration.
>
> The Clerk read the resolution, as follows:
>
> > *Resolved*, That during the remainder of the Ninety-first Congress, the Committee on Education and Labor shall be composed of thirty-seven members.
>
> **The Speaker:** Is there objection to the request of the gentleman from Oklahoma?

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3. 106 Cong. Rec. 9468, 86th Cong. 2d Sess.
4. Wilbur D. Mills (Ark.).
5. 116 Cong. Rec. 32303, 32304, 91st Cong. 2d Sess.
6. 115 Cong. Rec. 40922, 91st Cong. 1st Sess.

Mr. [Roman C.] Pucinski [of Illinois]: Mr. Speaker, reserving the right to object——

Mr. [Joe D.] Waggonner [Jr., of Louisiana]: Mr. Speaker, reserving the right to object——

The Speaker: The Chair will not entertain a reservation of objections.

Mr. Waggonner: Mr. Speaker, then I object.

The Speaker: Objection is heard.

Waiving House Rule

§ 47.5 The Speaker may recognize a Member for a unanimous-consent request to waive the requirement of a rule unless the rule in question specifies that it is not subject to waiver, even by unanimous consent.

On July 29, 1970,(7) the Committee of the Whole was considering H.R. 17654, the Legislative Reorganization Act of 1970. During debate on the bill there was pending an amendment to require the Record to contain a verbatim account of floor proceedings, permitting only technical corrections by revision and extension of remarks, and authorizing Members to insert remarks not spoken on the floor but requiring their printing in distinctive type, and an amendment thereto retaining the present practice of making insertions by unanimous consent. A dialogue arose between the Chairman of the Committee of the Whole, William H. Natcher, of Kentucky, and Mr. Dante Fascell, of Florida, regarding the effect of such amendments on the Speaker's power of recognition for unanimous-consent requests:

Mr. Fascell: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state his parliamentary inquiry.

Mr. Fascell: If there is no prohibition in the rule for the Speaker to recognize any Member for a unanimous-consent request, is it not true that the Speaker can recognize any Member for a unanimous-consent request?

The Chairman: The power of recognition is in the Speaker. He has the right to recognize any Member on the floor.

Mr. Fascell: Mr. Chairman, a further parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Fascell: The point specifically is that by rule the Speaker can be prohibited from recognizing a Member for a unanimous-consent request; is that not correct?

The Chairman: The Chair would like to inform the gentleman that his statement is correct.

Mr. Fascell: Mr. Chairman, a further parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Fascell: Is it not true, therefore, that if there is no prohibition in the present amendment, any Member could rise and the Speaker could recognize him for a unanimous-consent re-

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7. 116 Cong. Rec. 26419, 91st Cong. 2d Sess.

quest to waive that particular rule at that moment?

THE CHAIRMAN: The Chair would like to inform the gentleman that under those conditions it would require unanimous consent. Any Member could object. The Speaker could object.

MR. FASCELL: Mr. Chairman, one further parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. FASCELL: May a rule be waived by unanimous consent, either temporarily or permanently?

THE CHAIRMAN: The Chair would like to inform the gentleman that there are rules of the House that the Speaker himself does not have the right to waive.

§ 47.6 Rule XXXII governing admissions to the floor specifically prohibits the Speaker from entertaining motions or unanimous-consent requests to suspend that rule.

On June 8, 1972,[8] during consideration in the House of the conference report on S. 659, the Education Amendments of 1972, Mr. Olin M. Teague, of Texas, posed a point of order to the Speaker, Carl Albert, of Oklahoma, relative to Rule XXXII:[9]

MR. TEAGUE of Texas: Mr. Speaker, the rules of the House limit the number of staff members who are allowed on the floor in a situation like this and I make the point of order that this committee has violated that rule of the House.

Mr. Speaker, the reason I make this point of order is to point up the fact that if the debate concerning this conference report requires 10 or 15 staff members to be on the floor to tell them what to say or what to do, then for sure they must not know what is in the bill.

THE SPEAKER: The gentleman has made a point of order that the committee has violated the rules of the House in bringing an excessive number of committee staff members to the floor. The rule which governs situations of this kind is rule 32 which lists those who do have the privileges of the floor, and contains the clause: "and clerks of committees when business from their committee is under consideration; and it shall not be in order for the Speaker to entertain a request for the suspension of this rule."

This rule was adopted before the Reorganization Act of 1947 which provided for four professional staff members for each committee. The Chair must hold under the rule that no committee is entitled under the rules of the House—because the Chair cannot waive the rule—to more than four professional staff members and the clerk, a total of five.

Permitting Debate on Motion to Rerefer

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[8] 118 CONG. REC. 20318, 92d Cong. 2d Sess.

[9] Rule XXXII clause 1, *House Rules and Manual* § 919 (1981), prohibits the Speaker from entertaining requests to suspend provisions of the rule governing admission to the floor of the House.

§ 47.7 Where the rule with regard to rereference of bills on motions of a committee prohibits debate, a Member may proceed by unanimous consent for one minute before he makes such motion.

On Apr. 21, 1942,(10) the Speaker, Sam Rayburn, of Texas, recognized Mr. Samuel Dickstein, of New York.

> Mr. Dickstein: Mr. Speaker, I ask unanimous consent to address the House for 1 minute.
>
> The Speaker: Is there objection to the request of the gentleman from New York?
>
> There was no objection.
>
> Mr. Dickstein: Mr. Speaker, the gentleman from Alabama [Mr. Hobbs] has introduced another Hobbs bill known as H.R. 6915. At the conclusion of my remarks I propose to move that it be referred to the Committee on Immigration and Naturalization, where this bill belongs. Time does not permit me to go into a detailed discussion to point out to the House that this bill is absolutely an immigration bill and not a bill for the Committee on the Judiciary but I can give you a short analysis of the bill to prove my point. . . .
>
> Mr. Speaker, by direction of the Committee on Immigration and Naturalization, I move that the bill H.R. 6915, now in the Committee on the Judiciary, be referred to the Committee on Immigration and Naturalization.

Subsequently, Mr. Sam Hobbs, of Alabama, rose with a point of order.

> Mr. Hobbs: Mr. Speaker, I make the point of order against the motion that it is made in violation of the rule under which it is supposed to be presented, in that there was debate by the distinguished gentleman from New York for 1 minute immediately preceding the submission of the motion, whereas the opposition is denied that right by the rule.
>
> The Speaker: The Chair did not know what the gentleman from New York was going to talk about. The Chair cannot look into the mind of a Member when he asks unanimous consent to address the House for 1 minute and see what he intends to talk about.

Postponing Consideration of Privileged Resolution

§ 47.8 The calling up of a resolution reported from the Committee on Rules is a matter of high privilege; but when consideration thereof has begun, the House can postpone it and proceed to other business by unanimous consent.

On Oct. 29, 1969,(11) Mr. John A. Young, of Texas, was recognized on the floor of the House to call up a special order from the Committee on Rules providing for the consideration of H.R. 14001,

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10. 88 Cong. Rec. 3570, 3571, 77th Cong. 2d Sess.

11. 115 Cong. Rec. 32076–83, 91st Cong. 1st Sess.

amending the Military Selective Service Act.

> **Mr. Young**: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 586 and ask for its immediate consideration.

After the Clerk reported the resolution, Mr. Young was recognized for debate on the resolution. During debate, points of no quorum were made, resulting in calls of the House after which Mr. Young made the following request:

> **Mr. Young**: Mr. Speaker, I ask unanimous consent that further consideration of this resolution be postponed until tomorrow.
>
> **The Speaker**:(12) Is there objection to the request of the gentleman from Texas?
>
> There was no objection.

Parliamentarian's Note: The Member calling up the resolution could have withdrawn it before the House acted; and such withdrawal would not require unanimous consent. If withdrawn, renewed consideration of the resolution would have been de novo. By postponing consideration, the resolution became unfinished business.

As Related to Unparliamentary Language

§ 47.9 Although a Member's words have been taken down on demand and read to the House, the Speaker may recognize the Member who made the statement to ask unanimous consent to change those words.

On June 5, 1962,(13) the following occurred on the floor of the House:

> **Mr. [John D.] Dingell** [of Michigan]: . . . The AMA opposed the Social Security Act passed in 1935, and I refer the gentleman to the Journal of the American Medical Association and the proceedings of its house of delegates. I think in fairness when he stands up and opposes this and speaks as a mouthpiece for the AMA and as a mouthpiece for the house of delegates of the AMA, he should be shown as speaking for the kind of organization that has opposed all of these things.
>
> **Mr. [Thomas B.] Curtis** of Missouri: Mr. Speaker, a point of order.
>
> **The Speaker Pro Tempore**:(14) The gentleman will state his point of order.
>
> **Mr. Curtis** of Missouri: I regret to say that the gentleman's words need to be taken down.
>
> This is a point of order. To clarify, it was the reference to the gentleman from Missouri as a member of the house of delegates of the AMA and the reference to that organization and the relationship of the gentleman from Missouri to that organization.
>
> **The Speaker**:(15) The Clerk will report the words objected to.

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12. John W. McCormack (Mass.).

13. 108 Cong. Rec. 9739, 87th Cong. 2d Sess.

14. Arnold Olsen (Mt.).

15. John W. McCormack (Mass.).

The Clerk read as follows:

> **Mr. Dingell:** I think in fairness, when he stands up and opposes this and speaks as a mouthpiece for the AMA and as a mouthpiece for the house of delegates of the AMA, he should be shown as speaking for that kind of organization that has opposed all of these things.

Mr. Dingell: Mr. Speaker, I ask unanimous consent to change the words complained of to "self-appointed spokesman" instead of "mouthpiece."

The Speaker: Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Speaker: Does the gentleman from Missouri withdraw his point of order?

Mr. Curtis of Missouri: I do, Mr. Speaker.

§ 47.10 The words of a Member which were taken down and ruled out of order were, by unanimous consent, deleted from the Record; and the Member was then permitted to proceed in order.

On June 24, 1958,(16) Mr. Oren Harris, of Arkansas, rose to object to the use of certain language on the floor of the House:

Mr. Harris: Mr. Speaker, I must object to the language just used.

Mr. [Thomas B.] Curtis of Missouri: Mr. Speaker, wait a minute. Is the gentleman asking me to yield?

Mr. Harris: I am not asking the gentleman to yield.

Mr. Curtis of Missouri: Mr. Speaker, I have the floor.

The Speaker:(17) The gentleman from Missouri has the floor.

Mr. Harris: Mr. Speaker, I demand that the gentleman's words be deleted from the Record.

The Speaker: The Clerk will report the words objected to.

After the Clerk reported the words that were objected to, the following occurred:

The Speaker: The Chair thinks it is very clear that this is a reflection on a committee of the House of a very serious type and, therefore, holds that the language is not parliamentary.

Mr. Harris: Mr. Speaker, I ask unanimous consent that the language objected to be expunged from the Record and that the gentleman from Missouri be permitted to proceed in order.

Mr. Curtis of Missouri: Mr. Speaker, I would like to be heard.

The Speaker: The Chair has already ruled. It is as clear to the Chair as anything in the world.

Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Parliamentarian's Note: Motions to expunge from the Record and to permit a Member to proceed in order are privileged, therefore unanimous consent is not required.

Insertions in the Record

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(16) 104 Cong. Rec. 12120, 85th Cong. 2d Sess.

(17) Sam Rayburn (Tex.).

§ 47.11 The committee voting record of a Member was, at his request and by unanimous consent, inserted in the Record in the form of a memorandum prepared by the committee counsel.

On Dec. 11, 1969,(1) Mr. Arnold Olsen, of Montana, made the following statement on the floor of the House:

> Mr. Olsen: Mr. Speaker, during my 9 years here in the House of Representatives I have established a record in committee and here on the floor of the House. It has been a consistent record. I'am proud of it and I have campaigned on it in the last four elections.
>
> Last week a nationally syndicated columnist released certain allegations and implications which, if left unanswered, could cast a shadow on that record. For that reason I have asked Chairman Dulski of the House Post Office and Civil Service Committee to release a review of my position on the legislation in question during executive committee sessions over the last 9 years. Chairman Dulski directed counsel to prepare a summary of the previously unreported and confidential record and, with the advice and permission of my chairman, I am inserting this document in the Record today for the information of all of my distinguished colleagues. . . .
>
> Mr. Speaker, I ask that notwithstanding the rules of the House that the following documents be inserted at this time in the Congressional Record: First, the statement I released to the press last Friday following publication of the column in question; second, the letter from Committee Counsel Charles E. Johnson transmitting a compilation of my voting record in executive committee sessions and here on the floor of the House; and third, the record compiled by Mr. Johnson at the direction of Chairman Thaddeus J. Dulski.
>
> The Speaker Pro Tempore:(2) Is there objection to the request of the gentleman from Montana?
>
> There was no objection.

§ 48. Limitations on Requests

Multiple Requests

§ 48.1 During the pendency of a unanimous-consent request, the Speaker may refuse to entertain a second unanimous-consent request.

On Oct. 14, 1972,(3) during the pendency of a unanimous-consent request sought by Mr. Hale Boggs, of Louisiana, Mr. Wilbur D. Mills, of Arkansas, rose to his feet:

> Mr. Mills of Arkansas: . . . Mr. Speaker, would the gentleman from Louisiana yield for a unanimous-consent request?

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1. 115 Cong. Rec. 38556, 38557, 91st Cong. 1st Sess.
2. Charles M. Price (Ill.).
3. 118 Cong. Rec. 36501, 92d Cong. 2d Sess.

Mr. Boggs: Certainly.

Mr. [Durward G.] Hall [of Missouri]: Mr. Speaker, there is a unanimous-consent request before the House.

The Speaker:(4) There is a unanimous-consent request pending from the gentleman from Louisiana.

Requests Relating to Committee Meetings

§ 48.2 The Speaker has declined to recognize a Member for a unanimous-consent request that a committee be allowed to sit at the same time the House is considering a measure under the five-minute rule.

On July 1, 1947,(5) the following occurred on the floor of the House:

> Mr. [Samuel K.] McConnell [Jr., of Pennsylvania]: Mr. Speaker, I ask unanimous consent that a subcommittee of the Committee on Education and Labor holding hearings on minimum wages be allowed to sit tomorrow during the session of the House.
>
> The Speaker:(6) The Chair cannot recognize the gentleman for that purpose. Tomorrow the House will be reading the civil functions appropriation bill for amendment, and committees cannot sit during sessions of the House while bills are being read for amendment; only during general debate.
>
> Mr. McConnell: We have a full schedule that we want to get through.
>
> The Speaker: That is the policy that has been adopted. The minority leader has stated that he would object to any requests of that character.

Requests to Proceed for One Minute

§ 48.3 The Minority Leader having been recognized to proceed for one minute and in that time having asked unanimous consent for consideration of a bill, the Speaker held that he had not been recognized for that purpose.

On Jan. 26, 1944,(7) the following took place on the floor of the House:

> Mr. Martin of Massachusetts and Mr. May rose.
>
> The Speaker:(8) For what purpose does the gentleman from Massachusetts rise?
>
> Mr. [Joseph W.] Martin [Jr.] of Massachusetts: Mr. Speaker, I ask unanimous consent to proceed for 1 minute.
>
> The Speaker: The Chair will not recognize any other Member at this time for that purpose but will recognize the gentleman from Massachusetts.
>
> Mr. Martin of Massachusetts: Mr. Speaker, I appreciate the generosity of the Chair.
>
> I take this minute, Mr. Speaker, because I want to make a unanimous-

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4. Carl Albert (Okla.).
5. 93 Cong. Rec. 8054, 80th Cong. 1st Sess.
6. Joseph W. Martin, Jr. (Mass.).
7. 90 Cong. Rec. 746, 747, 78th Cong. 2d Sess.
8. Sam Rayburn (Tex.).

consent request and I think it should be explained.

I agree with the President that there is immediate need for action on the soldiers' vote bill. A good many of us have been hoping we could have action for the last month. To show our sincerity in having action not next week but right now, I ask unanimous consent that the House immediately take up the bill which is on the Union Calendar known as S. 1285, the soldiers' voting bill.

The Speaker: The gentleman from Massachusetts was not recognized for that purpose.

The Chair recognizes the gentleman from Kentucky.

Production of Committee Documents

§ 48.4 The Speaker declined to entertain a unanimous-consent request that the clerk of the Committee on House Administration be directed to bring to the well of the House certain documents in the custody of that committee.

On June 3, 1960,[9] Mr. John James Flynt, Jr., of Georgia, made the following request:

Mr. Flynt: Mr. Speaker, I ask unanimous consent that the Chair direct the clerk of the Committee on House Administration to bring to the well of the House, following the legislative business of the day, that portion of the records and documents in the custody of that committee, which refer to and contain the entries on the records of the Royal Hawaiian Hotel in Honolulu, Hawaii, for the purpose of permitting me to refer specifically to any such items contained therein which are at complete variance with published reports in the Wednesday issue of the Washington Post and Times Herald, and in the issue of Life magazine dated June 6, 1960, which is next Monday, but which appeared on the newsstands in the city of Washington and other parts of the country on Wednesday, June 1.

The Speaker:[10] The Chair will say to the gentleman that it has never been the policy of the House to order any documents in the custody of a committee of the House to be brought into the House, unless the committee by its action has approved such a request. The gentleman certainly may examine those items between now and the time he makes his remarks on that subject. But the Chair has never known of a case where a clerk of any committee has been ordered to bring documents to the floor of the House without the prior approval of the committee in whose hands they are at that time.

Requests to Rerefer

§ 48.5 The Speaker has declined to recognize a chairman of a committee for a unanimous-consent request to rerefer a bill until the chairman of the other committee was consulted.

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[9] 106 Cong. Rec. 11820, 11821, 86th Cong. 2d Sess.

[10] Sam Rayburn (Tex.).

On Mar. 25, 1948,(11) the following took place:

Mrs. [Edith Nourse] Rogers of Massachusetts: Mr. Speaker, I ask unanimous consent that the Committee on Veterans' Affairs be discharged from further consideration of the bill H.R. 5515 for the relief of Mr. and Mrs. Albert Chandler and that the same be re-referred to the Committee on the Judiciary.

The Speaker:(12) Has the gentlewoman conferred with the chairman of the Committee on the Judiciary?

Mrs. Rogers of Massachusetts: I have not, Mr. Speaker.

The Speaker: It is customary to consult with the chairman of the committee to whom the bill is to be referred. No harm will come if this matter is delayed until Monday.

Mrs. Rogers of Massachusetts: I withdraw the request, Mr. Speaker.

Requests Affecting the Schedule of Legislative Business

§ 48.6 The Speaker declined to recognize a Member for a unanimous-consent request to take a bill from the Speaker's table and concur in the Senate amendments thereto, where such a request was made in the absence of the chairman of the committee involved and where Members had been informed there would be no further legislative business for that day.

On July 31, 1969,(13) the Speaker, John W. McCormack, of Massachusetts, recognized Mr. Hale Boggs, of Louisiana:

Mr. Boggs: Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 9951), to provide for the collection of the Federal unemployment tax in quarterly installments during each taxable year; to make status of employer depend on employment during preceding as well as current taxable year; to exclude from the computation of the excess the balance in the employment security administration account as of the close of fiscal years 1970 through 1972; to raise the limitation on the amount authorized to be made available for expenditure out of the employment security administration account by the amounts so excluded; and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Speaker: The Chair will state that at this time the Chair does not recognize the gentleman from Louisiana for that purpose.

The chairman of the Committee on Ways and Means is at present appearing before the Committee on Rules seeking a rule and Members have been told that there would be no further business tonight.

§ 48.7 The Speaker declined recognition for a unanimous-consent request to call up a House resolution after it had been announced that there would be no

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(11) 94 Cong. Rec. 3573, 80th Cong. 2d Sess.

(12) Joseph W. Martin, Jr. (Mass.).

(13) 115 Cong. Rec. 21691, 91st Cong. 1st Sess.

further legislative business for that day.

On Feb. 7, 1969,(14) Mr. H. R. Gross, of Iowa, rose with a parliamentary inquiry:

Mr. Gross: Mr. Speaker, since several House resolutions have been passed today by unanimous consent, my question to the distinguished Speaker is whether it would be in order at this time to call up House Resolution 133 disapproving the pay increase for certain officials and employees of the Federal Government?

The Speaker:(15) The Chair will state to the gentleman from Iowa that it has already been announced that there would be no legislative business today. Under those circumstances, and without determining the merits of the resolution, the Chair could recognize the gentleman. Yet the Chair in its discretion will not recognize the gentleman for that purpose.

Requests Relating to Private Bills

§ 48.8 The Chair may refuse to recognize a Member for a unanimous-consent request to address the House on a private bill being considered on the Private Calendar.

On May 7, 1935,(16) the Clerk was calling up bills on the Private Calendar:

The Clerk called the next bill, S. 41, for the relief of the Germania Catering Co., Inc.

The Speaker Pro Tempore:(17) Is there objection to the present consideration of the bill?

Mr. [Charles V.] Truax [of Ohio]: Mr. Speaker, I ask unanimous consent to proceed for 5 minutes.

The Speaker Pro Tempore: The Chair will not recognize the gentleman for that purpose.

§ 48.9 The Speaker declined to recognize a Member for a unanimous-consent request relating to a bill stricken from the Private Calendar until such time as the Member had consulted with the official objectors.

On Apr. 19, 1948,(18) the Speaker, Joseph W. Martin, of Massachusetts, recognized Mr. Thomas J. Lane, of Massachusetts:

Mr. Lane: Mr. Speaker, I ask unanimous consent that the bill H.R. 403 be restored to the Private Calendar.

The Speaker: Has the gentleman consulted the objectors?

Mr. Lane: No; I have not.

The Speaker: The Chair cannot entertain the gentleman's request until he has done so.

Requests Relating to Consent Calendar

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14. 115 Cong. Rec. 3268, 91st Cong. 1st Sess.
15. John W. McCormack (Mass.).
16. 79 Cong. Rec. 7100, 74th Cong. 1st Sess.
17. John J. O'Connor (N.Y.).
18. 94 Cong. Rec. 4573, 80th Cong. 2d Sess.

§ 48.10 On Consent Calendar days only eligible bills on the calendar are called, and the Speaker may in his discretion decline to recognize unanimous-consent requests for consideration of bills which have not been on such calendar for three legislative days.

On May 6, 1946,(19) Mr. Overton Brooks, of Louisiana, made the following request:

> MR. BROOKS: Mr. Speaker, would it be in order to ask unanimous consent for the immediate consideration of the bill H.R. 2325, which is No. 419 on the Consent Calendar that was called today?
>
> THE SPEAKER:(20) The Chair announced some time ago that since those known as the objectors had examined only the eligible bills on the Consent Calendar the Chair would not recognize Members to take up the remaining bills, unless they involved emergencies.

Revocation of Special Order

§ 48.11 The Speaker pro tempore declined to recognize a Member to ask unanimous consent for the revocation of a special order, previously agreed to, permitting the consideration of conference reports on the same day reported.

On Sept. 25, 1961,(1) Mr. H. R. Gross, of Iowa, sought recognition for a unanimous-consent request:

> MR. GROSS: Mr. Speaker, I have a unanimous-consent request to make concerning the procedure of the House. I ask unanimous consent that the action by which clause 2 of Rule XXVIII was suspended a week ago last Saturday be revoked, and that clause 2, Rule XXVIII of the Rules of the House of Representatives be restored. . . .
>
> THE SPEAKER PRO TEMPORE:(2) Under the circumstances the Chair declines to recognize the gentleman from Iowa to submit the request.

Requests to Address the House

§ 48.12 The Chair may refuse to recognize Members for unanimous-consent requests to address the House on future days prior to the completion of legislative business on the current day.

On June 14, 1935,(3) Mr. Kent E. Keller, of Illinois, made the following request:

> MR. KELLER: Mr. Speaker, I ask unanimous consent that on next Monday after the reading of the Journal and the completion of business on the Speaker's desk I may address the House for 15 minutes to answer an

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19. 92 CONG. REC. 4527, 79th Cong. 2d Sess.
20. Sam Rayburn (Tex.).
1. 107 CONG. REC. 21183, 21184, 87th Cong. 1st Sess.
2. John W. McCormack (Mass.).
3. 79 CONG. REC. 9330, 74th Cong. 1st Sess.

attack upon an amendment I proposed to the Constitution made in the Washington Times of June 12 by Mr. James P. Williams, Jr.

THE SPEAKER:(4) Under the custom that prevails and the action of the Chair, heretofore, the Chair cannot recognize the gentleman today to make a speech on Monday. The Chair hopes the gentleman will defer his request.(5)

Requests Made After Previous Question Ordered

§ 48.13 When the Chairman of the Committee of the Whole reports a bill back to the House pursuant to a resolution providing that the previous question shall be considered as ordered, further debate or amendments in the House are thereby precluded; and the Speaker may decline to entertain unanimous-consent requests that further amendments be in order.

On Aug. 31, 1960,(6) the Committee of the Whole House on the state of the Union having considered the bill S. 2917, to establish a price-support level for milk and butterfat, reported the bill back to the House.

THE SPEAKER:(7) Under the rule the previous question is ordered.

The question is on the third reading of the Senate bill.

The bill was read a third time.

MR. [H. CARL] ANDERSEN of Minnesota: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. ANDERSEN of Minnesota: Would it be possible by unanimous consent to return to the amendment stage?

THE SPEAKER: It would not. The previous question has already been ordered. All amendments and all debate are exhausted.

§ 48.14 A yea and nay vote having been ordered the Chair may decline to entertain unanimous-consent requests.

On May 3, 1940,(8) the House had just ordered the previous question on H.R. 5435, an amendment to the Fair Labor Standards Act of 1938.

THE SPEAKER PRO TEMPORE:(9) . . . The question is on agreeing to the amendment.

MRS. [MARY T.] NORTON [of New Jersey]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered. . . .

MR. [FRANCIS H.] CASE of South Dakota: Mr. Speaker——

THE SPEAKER PRO TEMPORE: For what purpose does the gentleman rise?

MR. CASE of South Dakota: To prefer a unanimous-consent request.

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(4) Joseph W. Byrns (Tenn.).

(5) See also 79 CONG. REC. 3171, 3172, 74th Cong. 1st Sess., Mar. 7, 1935.

(6) 104 CONG. REC. 18748, 86th Cong. 2d Sess.

(7) Sam Rayburn (Tex.).

(8) 86 CONG. REC. 5499, 76th Cong. 3d Sess.

(9) Sam Rayburn (Tex.).

THE SPEAKER PRO TEMPORE: The yeas and nays have been ordered. The Chair will not entertain a unanimous-consent request at this time.

Requests for the Correction of Section Numbers

§ 48.15 A unanimous-consent request that the Clerk of the House, in the engrossment of the bill, be instructed to correct section numbers is not in order in the Committee of the Whole, since such permission must be obtained in the House.

On Oct. 3, 1962,(10) the Committee of the Whole was considering H.R. 13273, the rivers and harbors authorization bill of 1962, when a question arose as to the accuracy of the bill's section numbers:

> MR. [JAMES C.] WRIGHT [of Texas]: Mr. Chairman, so as to avoid any possible confusion in the numbering of these sections, I ask unanimous consent that the Clerk of the House be instructed so to number these sections serially that they are all in proper sequence.
>
> THE CHAIRMAN:(11) The gentleman's request will have to be made in the House.

Requests to Include Extraneous Matter in Remarks

§ 48.16 The House and not the Committee of the Whole has control over the Congressional Record and requests of Members to include in their remarks extraneous matters should be submitted in the House and not the Committee of the Whole.

On Apr. 14, 1937,(12) the Committee of the Whole was considering H.R. 1668, to amend the Interstate Commerce Act.

> MR. [WALTER M.] PIERCE [of Oregon]: Mr. Chairman, I ask unanimous consent that I may have the privilege of revising and extending my remarks and including therein such letters and telegrams as I have here denying or repudiating their appearance as proponents of the Pettengill bill.
>
> THE CHAIRMAN:(13) The Chair will remind the gentleman from Oregon that the request to extend his own remarks to include extraneous matter must be submitted in the House and not in Committee of the Whole.

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10. 108 CONG. REC. 21884, 87th Cong. 2d Sess.
11. Frances E. Walter (Pa.).
12. 81 CONG. REC. 3463, 75th Cong. 1st Sess.
13. J.Mark Wilcox (Fla.).

CHAPTER 24

Bills, Resolutions, Petitions, and Memorials

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Commentary and editing by David Paul Bird, J.D.

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Bills, Resolutions, Petitions, and Memorials

A. INTRODUCTORY; VARIOUS TYPES OF BILLS, RESOLUTIONS, AND OTHER MECHANISMS FOR ACTION

§ 1. In General

The objectives of this chapter are to define the various procedures by which measures are introduced and considered by the Congress and to describe the formal steps through which legislation must pass in order to become law. The role of the President in approving or vetoing measures submitted by the Congress is also considered.

While the greater part of the business considered and voted upon in the two Houses of Congress is legislative in character, other kinds of business are taken up by resolution either in one House alone or in both Houses concurrently. These nonlegislative measures, while not having the force of statute and usually limited to declarations of policy or to the internal operations of Congress, nevertheless play an important procedural role. Examples of such business include measures expressing the opinions of Congress on political questions or establishing rules of parliamentary procedure.

§ 2. Bills

The term "bill," as used in the Constitution,[1] refers to the chief vehicle employed by the Congress in the enactment of laws under its legislative power.

Bills are categorized under two headings: public and private. The former are general in their application, while the latter are specific and are limited in application to specified individuals or entities.[2]

Chapter 2 of title I of the United States Code contains the following provision regarding the enacting clause of a bill:

> § 101. The enacting clause of all Acts of Congress shall be in the following form: "Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled."

Cross Reference

Introduction and reference of bills, see Ch. 16, supra.

Interpretation of Bills

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[1] U.S. Const. art. I, § 7.

[2] See § 3, infra.

§ 2.1 It is not in order for a Member to have distributed on the floor of the House copies of a bill marked with his own interpretation of its provisions.

On Aug. 16, 1935,(3) during consideration of a resolution (H. Res. 343) making in order the consideration of the Snyder-Guffey coal bill (H.R. 9100), Mr. Claude A. Fuller, of Arkansas, raised the following parliamentary inquiry:

> Mr. Fuller: Mr. Speaker, I rise to a parliamentary inquiry. I just sent a page for the bill under consideration, H.R. 9100, and received the copy which I have in my hand. At the top of the bill, pasted onto it is a pink slip, and on that pink slip in typewriting are the words:
>
> > Bituminous-coal bill as amended and reprinted—controversial phases largely eliminated. Two-thirds of tonnage output operators favor bill, and more than 95 percent of labor.
>
> My inquiry is to know whether it is proper for anybody to paste such a thing as that on a document of the House and whether it is proper for it to be circulated in the House. This is the first time in my experience that I have ever seen any advertisement on an official document or bill pending in the House. I rise for the purpose of ascertaining how it came there and whether or not it is proper to be on this bill.
>
> The Speaker:(4) The Chair has no information on the subject. Where did the gentleman get his copy of the bill?
>
> Mr. Fuller: From a page. I send this copy to the desk so that the Speaker may examine it.
>
> Mr. [J. Buell] Snyder [of Pennsylvania]: I can tell the gentleman how that came there.
>
> The Speaker: The gentleman may state.
>
> Mr. Snyder: Mr. Speaker, I had so many of these bills sent to my office, and with my secretarial help we wrote those words on that pink slip and pasted the slip on the bill. That is how that happens to be there. I sent copies of these bills with the slip on them to those interested and sent some of them to the desk back here, to be handed out upon request. It is altogether fitting and proper that I should do so. . . .
>
> The Speaker: The Chair knows of no rule or authority for inserting a statement like that to which the gentleman has called attention on a bill, and the Chair instructs the pages of the House not to distribute any more bills carrying this sort of inscription to Members on the floor of the House.

§ 2.2 The Speaker does not rule on the effect of the provisions of a bill or whether they might have been incorrectly drafted.

On May 5, 1949,(5) during consideration in the House of the Na-

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3. 79 Cong. Rec. 13488, 74th Cong. 1st Sess.

4. Joseph W. Byrns (Tenn.).

5. 95 Cong. Rec. 5843, 5844, 81st Cong. 1st Sess.

tional Labor Relations Act of 1949 (H.R. 2032), Mr. Adam Clayton Powell, Jr., of New York, raised a point of order:

> MR. POWELL: If this bill uses language which is no longer in keeping with our laws, I raise the point of order that it is incorrectly drawn. On page 53, line 13, this bill uses the language, "to review by the appropriate circuit court of appeals." I make the point of order that there is no longer any circuit court of appeals.
>
> THE SPEAKER:(6) There might be 203 Members take the same position that the gentleman from New York does, but that does not alter the situation.
>
> The question is on the engrossment and third reading of the bill.

§ 3. Private Bills

Private legislation is the means by which the Congress grants relief to ". . . one or several specified persons, corporations, institutions, etc. . . ."(7) who may have no other legal remedy available to them. It also provides a means whereby honoraria are granted to individuals, but by far its most common usage pertains to granting a remedy to the personal and pecuniary grievances of individuals.(8)

Private laws constitute a significant portion of the total number of laws passed by each Congress. For example, in the 92d Congress 161 private laws and 607 public laws were enacted.(9)

The distinction between public and private bills is sometimes difficult to make. A statutory definition of a private bill was enacted in 1895(10) and amended in 1905.(11) However, this definition(12) was removed from title 44

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6. Sam Rayburn (Tex.).

7. 4 Hinds' Precedents § 3285.

8. In the 92d Congress, for example, [illegible] bills and resolutions regarding claims against the United States were referred to the House Committee on the Judiciary and 2,144 bills and resolutions concerning individual immigration problems. U.S. House of Representatives. Final Legislative Calendar, Committee on the Judiciary (92d Cong.), p. 10.

9. For a table listing private and public laws enacted in each Congress since the 53d Congress, see Calendars of the United States House of Representatives and History of Legislation, Final Edition (92d Cong.), p. 261.

10. Jan. 12, 1895, Ch. 23, § 55, 28 Stat. 609.

11. Jan. 20, 1905, Ch. 50, § 2, 33 Stat. 611.

12. ". . . The term 'private bill' shall be construed to mean all bills for the relief of private parties, bills granting pensions, bills removing political disabilities, and bills for the survey of rivers and harbors." Codified at 44 USC § 199 (1964 ed.).

of the United States Code when that title was enacted into positive law in 1968.[13] Through the years the term "private bill" has been used to describe widely differing types of legislation.[14]

Since 1968, the preponderance of private laws enacted by the House has continued to be for the relief of individuals devoid of other legal remedy. Citizenship for a person or persons otherwise ineligible on a technicality is frequently granted by private law.

A Speaker or former Speaker, and Members of Congress have on more than one occasion been granted permission to accept, or accept and wear, a foreign decoration,[15] when such acceptance would otherwise be constitutionally prohibited.[16]

Other purposes for which private laws have been enacted have included: permitting free entry to the United States of scientific and musical apparatus destined for use at specific colleges and universities; conveyance of real property and rights of the United States; relief of certain named private businesses; exemption from taxation of specific property in the District of Columbia; authorization for the Secretary of Agriculture to grant an easement over certain lands to a railroad company; and requirements that the Foreign Claims Settlement Commission determine or redetermine the validity of claims of named individuals against specified foreign governments.

In the Legislative Reorganization Act of 1946,[17] Congress limited the types of measures that may be considered as private bills:

> Sec. 131. No private bill or resolution (including so-called omnibus claims or pension bills), and no amendment to any bill or resolution, authorizing or directing (1) the payment of money for property damages, for personal injuries or death for which suit may be instituted under the Tort Claims Procedure as provided in Title 28, United States Code, or for a pension (other than to carry out a provision of law or treaty stipulation); (2) the construction of a bridge across a navigable stream; or (3) the correction of a military or naval record, shall be received or considered in the House.[18]

Certain of the categories in which private bills were banned under the act were delegated to other agencies by other sections of the act. The Secretaries of War, the Navy, and the Treasury were authorized to establish civilian boards to review military and naval records to correct errors and remove any injustices.(19) The Federal Tort Claims Act provided administrative and judicial remedies in certain personal injury cases involving negligence of federal employees acting within the scope of their employment.(20) And general authority for the construction of bridges over the navigable waters of the United States was delegated to the Chief of Engineers and the Secretary of War.(21)

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[13] Oct. 22, 1968, Pub. L. No. 90-620, [illegible]

[14] [illegible]

[15] [illegible]

[16] U.S. Const. art. I, § 9 clause 8.

[17] Aug. 2, 1946, Ch. 753, 60 Stat. 812.

[18] 60 Stat. 831. This provision was incorporated into the rules of the House in [illegible]3. See Rule XXII clause 2, House Rules and Manual § 852 (1981).

Today private bills considered and passed in the Congress fall largely into two major categories: claims cases and immigration and naturalization cases. Other less frequently introduced types of private bills include conveyances of real property to identified individuals or private groups, bills affecting military rank (though not correcting military records) of individuals, bills or resolutions paying tribute to or conferring awards or medals upon living persons, bills documenting private vessels, and bills permitting U.S. citizens to be employed by foreign governments.

Claims Cases

Since the United States may not be sued absent the authority of an act of Congress,(1) Congress has over the years enacted a series of laws allowing the administrative and judicial settlement of claims against the United States in order to alleviate the determination of individual cases by means of private legislation.

The Court of Claims was created by the Act of Feb. 24, 1855,(2) ". . . primarily to relieve the pressure on Congress caused by the volume of private bills."(3) Under this act the court was directed to hear claims and report its findings and recommendations to Congress. By the Act of Mar. 3, 1863,(4) the judgments of the court were made final, but appeals to the Supreme Court were allowed in certain cases.

In 1887, Congress enacted the Tucker Act(5) whereby the juris-

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19. Sec. 207, 60 Stat. 837, now at 10 USC § 1552.
20. Title IV, §§ 401–403, 60 Stat. 842.
21. Title V, §§ 501–511, 60 Stat. 847.

1. *United States* v *Clarke,* 8 Pet. (33 U.S.) 436 (1834).
2. Ch. 122, 10 Stat. 612.
3. Opinion of Justice Harlan, *Glidden Company* v *Zdanok,* 370 U.S. 530, 552 (1962).
4. Ch. 92, § 5, 12 Stat. 765, 766.
5. Mar. 3, 1887, Ch. 359, 24 Stat. 505.

diction of the court was greatly expanded. Its present form in the revised title 28 provides:

> The Court of Claims shall have jurisdiction to render judgment upon any claim against the United States founded either upon the Constitution, or any Act of Congress, or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort. . . .(6)

Congress has also authorized suits against the United States in the Court of Claims for patent infringement,(7) in U.S. District Court for admiralty and maritime torts,(8) and in U.S. District Court for torts by employees of the government while acting within the scope of their employment.(9)

Furthermore, the Congress has established the Customs Court,(10) the Court of Customs and Patent Appeals,(11) and the Tax Court(12) to hear claims cases against the government in these areas.

Cases that do not fall into any of the above categories or where a statute of limitations under one of those judicial or administrative remedies has run, become possible subjects for private legislation to be considered by the Congress itself. However, the separation between judicial and congressional determination of claims cases is not complete since Congress frequently refers private bills to the Court of Claims(13) for a determination of the nature of the claims ". . . and the amount, if any, legally or equitably due from the United States. . . ."(14)

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6. 28 USC § 1491.
7. 28 USC § 1498 (1970 ed.).
8. Feb. 28, 1920, Ch. 95, § 2, 41 Stat. 525, 46 USC § 742 (1970 ed.); and Mar. 3, 1925, Ch. 428, § 1, 43 Stat. 1112, 46 USC § 781 (1970 ed.).
9. Federal Tort Claims Act, 28 USC §§ 1346(b), 2671 et seq.
10. 28 USC § 1581.
11. 28 USC §§ 211 et seq.
12. 28 USC §§ 7441 et seq.
13. 28 USC § 1492.
14. 28 USC § 2509. The congressional reference of claims has generated some question as to the nature of the Court of Claims as legislative or constitutional. That court and the Court of Customs and Patent Appeals were declared constitutional under art. III in *Glidden* v *Zdanok*, 370 U.S. 530 (1962). However, no clear standard for pronouncing a court to be legislative (art. I) rather than constitutional (art. III) has been announced by the Supreme Court. See: *Constitution of the United States of America* pp. 590-596, S. Doc. No. 92-82, 92d Cong. 2d Sess. (1972).

    It is clear that a court is of a legislative character when it performs functions of a legislative or advisory nature which are subject to review by

Perhaps the clearest, although indirect, statement upholding the constitutional basis of private claims legislation was made by the U.S. Supreme Court in the case of *Pope* v *United States.*(15) That case was decided on appeal to the Supreme Court after the Court of Claims had refused to give effect to a private law directing that court to render judgment for the petitioner.

The petitioner first sued for the costs incurred in performing additional work in connection with a contract with the government for the construction of a tunnel as part of the water system of the District of Columbia. The Court of Claims denied these costs since such additional work was not specified in the contract. After a review of the case was denied by the Supreme Court, the petitioner obtained a private law from Congress directing the Court of Claims to order payment of the costs in question. The Court of Claims declined to follow this private law on the grounds that it was an invasion of a judicial function which that court had already exercised.

The Supreme Court ruled that the private law in question did not set aside the former judgment but created a new obligation on the part of the government where none existed before. Mr. Chief Justice Stone, writing for the Court, went on to say:

> We perceive no constitutional obstacle to Congress' imposing on the Government a new obligation where there had been none before, for work performed by petitioner which was beneficial to the Government and for which Congress thought [petitioner] had not

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a legislative or executive body. See *Gordon* v *United States,* 5 Wall. (72 U.S.) 419 (1867). Thus, the Court of Claims commissioners, not the Court of Claims judges, are performing a nonjudicial advisory function under the congressional reference statute (28 USC § 2509(b)).

15. 323 U.S. 1 (1944).

The Supreme Court on two occasions has upheld the validity of private laws affecting controversies between individuals. Those cases were *Maynard* v *Hill,* 125 U.S. 190 (1888), and *Paramino Co.* v *Marshall,* 309 U.S. 370 (1940). The former involved a private law granting an individual an ex parte divorce in the Oregon Territory, and the latter involved a private law directing the reopening of a work injury case against a private insurance carrier under the Longshoremen's and Harbor Workers' Compensation Act. A commentator has suggested that such laws would not be upheld today under modern concepts of equal protection (Private Bills in Congress, 79 Harv. L. Rev. 1684, 1696.) Private bills now generally do not affect rights between individuals.

> been adequately compensated. The power of Congress to provide for the payment of debts, conferred by § 8 of Article I of the Constitution, is not restricted to payment of those obligations which are legally binding on the Government. It extends to the creation of such obligations in recognition of claims which are merely moral or honorary.(16)

A similar interpretation of article I, section 8, clause 1 of the Constitution was announced by the Supreme Court in 1895 in the case of *United States* v *Realty Company.*(17) Although that case did not involve a private law, it did provide to a class of individuals the type of relief that is dispensed under a private bill. The Court said, "The term 'debts' includes those debts or claims which rest upon a merely equitable or honorary obligation, and which would not be recoverable in a court of law if existing against an individual."(18)

In 1949, the Court of Claims, citing both the *Pope* and *Realty Co.* cases, made clear that the "debts" of the United States to be paid by private legislation are not limited in their determination by ". . . principles of right and justice as administered by courts of equity, but [by] the broader moral sense based upon general equitable consideration. . . ."(19)

Immigration Cases

The second major subject of private legislation now considered in Congress involves situations arising under the immigration and naturalization laws.(1) Specifically, Congress has acted to exempt individuals from the application of the law in hardship cases where the law would otherwise prohibit entry into or require deportation from the United States, or where individuals are capable of rendering service to the nation but are otherwise incapable of fulfilling citizenship requirements.

Deportation cases are inherently difficult because, by the nature of the process, an individual subject to deportation is likely to be removed from the country before a private bill exempting him can be introduced and considered in Congress. To alleviate this problem the Department of Justice and the House and Senate Judiciary Committees follow a procedure under which the deportation of an individual will be halted when a private bill has been intro-

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16. *Pope* v *United States,* 323 U.S. 1 at p. 9.
17. 163 U.S. 427.
18. *Id.* at p. 440.
19. *Burkhardt* v *United States,* 84 F Supp 553, 559 (Ct. Cl. 1949).
1. 8 USC §§ 1101-1503 (1970).

duced on his behalf and the Committee on the Judiciary of either the House or Senate has requested a report from the Immigration and Naturalization Service.(2)

Collateral References

Col. M. T. Bennett. Private Claims Acts and Congressional References, reprinted by House Committee on the Judiciary. 90th Cong. 2d Sess. (committee print 1968).

Private Bills in Congress. 79 Harv. L. Rev. 1684 (1966).

Private Bills and the Immigration Law. 69 Harv. L. Rev. 1083 (1956).

Gelhorn and Lauer. Congressional Settlement of Tort Claims Against the United States, 55 Colum. L. Rev. 1 (1955).

Authorizing Acceptance of Foreign Honors or Awards

§ 3.1 A private bill authorizing a former Speaker of the House to accept an award from a foreign government passed the House on the Private Calendar.

On Aug. 3, 1965,(3) the House passed a private bill (H.R. 10132) to authorize the Honorable Joseph W. Martin, Jr., of Massachusetts, a former Speaker, to accept from the Government of Portugal the award of the Military Order of Christ with the rank of Grande Officer.(4)

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2. Rules of the Committee on the Judiciary, Subcommittee on Immigration, U.S. House of Representatives, Rule No. 3, 93d Cong. (1973). Rule 4 of these rules provides, further, that a departmental report shall not be requested in cases of those ". . . who have entered the United States as nonimmigrants, stowaways, in transit, deserting crewmen, or by surreptitiously entering without inspection through the land or sea borders of the United States."

The committee has subsequently placed further conditions and restrictions on when and in what types of cases it will request a report.

Under a prior practice, mere introduction of a bill was sufficient to stay deportation. The procedure was recognized in United States ex rel. *Knauff* v *McGrath* (171 F2d 839, 2d cir. 1950), where a writ of habeas corpus was issued staying the deportation of one on whose behalf a private bill granting admission has been introduced in Congress.

3. 111 Cong. Rec. 19210, 89th Cong. 1st Sess.
4. See also H.R. 11227, authorizing Representative Eugene J. Keogh (N.Y.), to accept the award of the Order of Isabella the Catholic from Spain. 112 Cong. Rec. 12480, 89th Cong. 2d Sess., June 7, 1966.

Congress has by law consented to the acceptance of decorations by Members, officers, or employees of the House. [See 5 USC § 7342(d), Foreign Gifts and Decorations Act, Pub. L. No. 95-105.] The Committee on Standards of Official Conduct has promulgated regulations concerning such acceptance and retention of

Indemnifying a Foreign Government

§ 3.2 A bill to indemnify a foreign government for injury to its nationals is a public bill.

On Apr. 6, 1936,(5) the Clerk called on the Consent Calendar the bill (H.R. 11961) authorizing an appropriation for the payment of the claim of General Higinio Alvarez, a Mexican citizen, with respect to certain lands in Arizona. Mr. Jesse P. Wolcott, of Michigan, raised a point of order against consideration of the bill on the grounds that it was of a private character and should be on the Private Calendar instead of the Consent Calendar.

The Speaker(6) ruled, "In the opinion of the Chair, this is a public bill. It provides that part of this money shall be paid to the Government of Mexico."(7)

Indian Claims

§ 3.3 A bill dealing with Indians as a nation and not with Indians as individuals is a public bill.

On Feb. 4, 1931,(8) the Clerk called on the House Calendar the bill (S. 3165) conferring jurisdiction upon the Court of Claims to hear, consider, and report upon a claim of the Choctaw and Chickasaw Indian nations or tribes for fair and just compensation for certain lands.

Mr. William H. Stafford, of Wisconsin, raised a point of order against the bill contending that it was a private bill:

> A private bill is a bill for the relief of one or several specified persons, corporations, institutions, etc., and is distinguished from a public bill, which relates to public matters and deals with individuals by classes only.

The Chair(9) ruled that, ". . . As the Chair recollects the law, the United States deals with the Choctaw and Chickasaw tribes as nations and through treaties. Therefore this bill deals with the Indians as a nation and not with Indians as individuals. The Chair believes that this is a public bill and is properly on the public cal-

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decorations and gifts from foreign governments [see *Ethics Manual for Members and Employees*, published each Congress by the committee].

5. 80 Cong. Rec. 5027, 5028, 74th Cong. 2d Sess.
6. Joseph W. Byrns (Tenn.).
7. Speaker Byrns cited *Cannon's Procedure* (p. 335, 1963 ed.) for authority that, "A bill to indemnify a foreign government for injury to its nationals" is a public bill. For a similar ruling by Speaker William B. Bankhead (Ala.), see 81 Cong. Rec. 649, 75th Cong. 1st Sess., Feb. 1, 1937.
8. 73 Cong. Rec. 3969–71, 71st Cong. 3d Sess.
9. Earl C. Michener (Mich.).

endar, and overrules that point of order. . . ."

Disposition of Private Bills

§ 3.4 Where a bill affects an individual or particular individuals or corporations or institutions, it should go to the Private Calendar.

On Mar. 17, 1930,(10) Mr. William H. Stafford, of Wisconsin, raised a point of order against the consideration on the Consent Calendar of the bill (H.R. 5917), for the relief of certain newspapers (for advertising services rendered the Public Health Service), that it was a private bill and not properly on the Consent Calendar.

The Chair(11) ruled that, ". . . Where a bill affects an individual, individuals, corporations, institutions, and so forth, it should and does go to the Private Calendar. Where it applies to a class and not to individuals as such, it then becomes a general bill and would be entitled to a place on the Consent Calendar. In the judgment of the Chair this bill, while affecting a class of concerns, specifies individuals, and for the purpose of the rule the Chair holds that the bill is improperly on this [Consent] Calendar and transfers it as of the date of the original reference to the Private Calendar."

§ 4. Joint Resolutions

The joint resolution is another legislative instrument employed by the Congress in the exercise of its power under article I, section 1 of the Constitution. It is the type of measure that requires an affirmative vote by both Houses and submission to the President for approval under article I, section 7. When a joint resolution is approved by the President, or when he fails to return it to the Congress within the prescribed time, or when he vetoes it and his veto is overridden it becomes public law and it is published in the statutes-at-large as such.(12)

Thus, the joint resolution is considered in the same manner as a bill, with one important exception: where a joint resolution is used to bring about a constitutional amendment,(13) the resolution,

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10. 72 Cong. Rec. 5454, 71st Cong. 2d Sess.

11. Earl C. Michener (Mich.).

12. 1 USC §§ 106, 106a, 112.

13. Since 1936 the following amendments to the Constitution have been adopted pursuant to joint resolutions: 22d amendment, H.J. Res. 27. 93 Cong. Rec. 2392, 80th Cong. 1st Sess., Mar. 21, 1947; 23d amendment, S.J. Res. 39. 106 Cong. Rec. 12858, 86th Cong. 2d Sess., June 16, 1960; 24th

after approval thereof by both Houses by two-thirds vote, is submitted to the states for ratification. It is not submitted to the President.(14)

There are no established rules requiring the use of a joint resolution rather than of a public bill, or vice versa, in the consideration and enactment of legislation. However, in practice joint resolutions are not now used for purposes of general legislation. They are used for special purposes and for such incidental matters as changing or fixing effective dates,(15) to establish joint committees or provide a commission with subpena power,(16) or to provide continuing appropriations.(17) The joint resolution, because it permits the use of a preamble (which is not appropriate in a bill), is also used where it is necessary to set forth in the legislation the events or state of facts which prompt the measure. For this reason, declarations of war have been made by joint resolution.(18)

Chapter 2 of title I of the United States Code contains the following provision regarding the enacting clause of a joint resolution:

> § 102. The resolving clause of all joint resolutions shall be in the following form: "Resolved by the Senate and House of Representatives of the United States of America in Congress assembled."

Constitutional Amendment

§ 4.1 It is permissible on the floor of the Senate, where a germaneness rule is not operating, to amend a joint resolution that is legislative in character by striking all after the resolving clause and inserting provisions of a constitutional amendment.

On Mar. 26, 1962,(19) during consideration in the Senate of a joint resolution (S.J. Res. 29) establishing the former dwelling house of Alexander Hamilton as a national monument, Senator Spessard L. Holland, of Florida,

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amendment, S.J. Res. 29. 108 Cong. Rec. 17670, 87th Cong. 2d Sess., Sept. 14, 1962; 25th amendment, S.J. Res. 1. 111 Cong. Rec. 15593, 89th Cong. 1st Sess., July 6, 1965; and 26th amendment, S.J. Res. 7. 117 Cong. Rec. 7570, 92d Cong. 1st Sess., Mar. 23, 1971.

14. U.S. Const. art. 5.

15. See §§ 4.4 et seq., infra.

16. See §§ 4.10, 4.11, infra.

17. See § 4.3, infra.

18. See § 4.16, infra.

Note: Joint resolutions may contain preambles which are amendable after engrossment and prior to third reading of the joint resolution.

19. 108 Cong. Rec. 5042, 87th Cong. 2d Sess.

offered an amendment in the nature of a substitute proposing to amend the Constitution to abolish the poll tax. Senator Richard B. Russell, of Georgia, raised a point of order against the amendment:(20)

> . . . I take the position that the Constitution itself prescribes the method by which it may be amended, and that the pending proposal does not appear in the Constitution as a means whereby a proposed constitutional amendment may be submitted to the several States. I further submit that in the 173 years since the Constitution of the United States was first ratified and approved, no attempt whatever has ever been made to distort the constitutional process. This is the first time in 173 years that an effort has been made to use a piece of proposed general legislation as a vehicle for amending the Constitution of the United States and submitting that amendment to the several States. . . .
>
> In article V we find the language to which the great interest of Congress should be devoted. Yet instead of a resolution in the form prescribed or indicated in article V, and followed for the 173 years that Congress has been meeting, an attempt is made to utilize a piece of proposed legislation, respectable enough in itself, proposing a memorial to a great American who has not yet had any memorial erected in his honor; but which requires the ordinary legislative process requiring the signature of the President or else a vote on the part of Congress to override a veto by the President.
>
> Mr. President, the amendment of the Constitution of the United States is a procedure which is solely between the Congress and the several States. This is the only process from which the President of the United States is completely excluded. Nothing in the Constitution indicates that the President shall even see a proposed amendment of the Constitution. He has no authority to veto it. There is no requirement that he approve it. Nothing in the Constitution indicates that it shall even be brought to his attention.
>
> Yet the Senate is undertaking to add to article V of the Constitution, without any authority to do so, a third method of amending the Constitution, by saying that a proposed amendment to the Constitution can be appended to the joint resolution now under consideration.
>
> Mr. President, this is wholly unconstitutional procedure. Nothing in the Constitution warrants it. Nothing in the precedents of the Senate justifies it, although over the years we have had almost every precedent of which the mind of man can conceive. . . .
>
> MR. [MIKE] MANSFIELD [of Montana]: Mr. President, I think it is clear that the proposal of the Senator from Florida is entirely in accord with the Constitution of the United States and with the Senate rules. On the question of final adoption of Senate Joint Resolution 29, as amended by the Holland substitute, two-thirds of the Senate must vote in the affirmative if the resolution is to be agreed to. The same will be true in the House of Representatives. The joint resolution, as thus amended, will then be submitted to the several States for ratification. There-

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20. *Id.* at pp. 5083–87 (Mar. 27).

> fore, all the requirements of the Constitution and of our rules will have been met.
>
> Mr. President, I move that the question of constitutionality as raised by the distinguished Senator from Georgia be laid on the table, and I ask for the yeas and nays.

The motion was agreed to (58 yeas, 34 nays).[21]

§ 4.2 A joint resolution proposing an amendment to the Constitution may be amended in the Senate by a substitute providing legislative provisions designed to accomplish the same result.

On Feb. 2, 1960,[1] during consideration in the Senate of a joint resolution (S.J. Res. 39) to amend the Constitution to allow Governors to fill temporary vacancies in the House of Representatives, Senator Jacob K. Javits, of New York, raised the following parliamentary inquiry:

> I understand that it will be in order, after action is taken on the Holland amendment, for me to move as substitute for the entire joint resolution a statutory provision to accomplish the same result. Is that correct?
>
> THE PRESIDING OFFICER:[2] The Senator is correct.

Continuing Appropriations

§ 4.3 Measures providing continuing appropriations for a fiscal year are enacted by joint resolution, and such joint resolutions, when previously made in order by unanimous consent, are called up as privileged, even though they are not now considered general appropriations bills.

On Aug. 25, 1965,[3] Mr. George H. Mahon, of Texas, made the following statement:

> Mr. Speaker, pursuant to the unanimous-consent agreement of yesterday, I call up the joint resolution (H.J. Res. 639) making continuing appropriations for the fiscal year 1966, and for other purposes, and ask unanimous consent that it be considered in the House as in Committee of the Whole. . . .
>
> THE SPEAKER:[4] Is there objection to the request of the gentleman from Texas?
>
> There was no objection.

Fixing Date for Reorganization Plan

§ 4.4 A joint resolution has been used to fix the date when certain reorganization plans of the President shall go into effect.

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[21] *Id.* at pp. 5086, 5087.

[1] 106 CONG. REC. 1747, 86th Cong. 2d Sess.

[2] Edmund S. Muskie (Me.).

[3] 111 CONG. REC. 21751, 89th Cong. 1st Sess.

[4] John W. McCormack (Mass.).

On June 1, 1939,(5) the House considered the following [illegible] joint resolution (S.J. Res. [illegible]):

Resolved, etc., That the [illegible] reorganization plan No. I, [illegible] the Congress on April 25, 1[illegible] provisions of reorganizatio[illegible] II, submitted to the Congr[illegible] 9, 1939, shall take effect [illegible] 1939, notwithstanding the [illegible] the Reorganization Act of 1[illegible]

With the following committee amendment:

Page 1, after line 8, insert the following:

"Sec. 2. Nothing in such plans or this joint resolution shall be construed as having the effect of continuing any agency or function beyond the time when it would have terminated without regard to such plans or this joint resolution or of continuing any function beyond the time when the agency in which it was vested would have terminated without regard to such plans or this joint resolution."

Fixing Date for Convening Congress

§ 4.5 A joint resolution has been used to fix the day of meeting of a new session of Congress in lieu of the regular meeting date.

On Dec. 30, 1941,(6) the House considered and passed the following joint resolution (S.J. [illegible]):

[illegible]

Change in Date for Counting Electoral Votes

§ 4.6 A joint resolution has been used to change the date for the counting of the electoral votes.

On Feb. 7, 1956,(8) the House considered and passed the following joint resolution (H.J. Res. 517):

Whereas January 6, 1957, is a Sunday; and

Whereas Public Law 771, 80th Congress (62 Stat. 672, 675), provides that "Congress shall be in session on the 6th day of January succeeding every meeting of the (Presidential) electors" for the purpose of counting the electoral votes: Therefore be it

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5. 84 Cong. Rec. 6527, 76th Cong. 1st Sess.
6. 87 Cong. Rec. 10126–31, 77th Cong. 1st Sess.
7. The Constitution provides: "The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day." U.S. Const. amend. 20, § 2.

   See also [illegible] Cong. 1st Sess., July 26, 1947.
8. 102 Cong. Rec. 2220, 84th Cong. 2d Sess.

Resolved, etc., [illegible]

Change in Date for Submission of President's Budget

§ 11.2 A joint resolution has been used to postpone the dates for the submission of the President's budget message and economic report.

On Jan. 6, 1965,(9) the House considered and passed the following joint resolution (H.J. Res. 123):

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding the provisions of section 201 of the Act of June 10, 1921, as amended (31 U.S.C. 11), the President shall transmit to the Congress not later than January 25, 1965, the budget for the fiscal year 1966, and (b) notwithstanding the provisions of section 3 of the Act of February 20, 1946, as amended (15 U.S.C. 1022), the President shall transmit to the Congress not later than January [illegible], 1965, the [illegible]

Authorizing Printing of Publication

§ 11.3 A joint resolution [illegible]

On Oct. 16, 1963,(11) the House considered and passed the following joint resolution (S.J. Res. 12[illegible]):

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be printed and bound for the use of the Senate one thousand five hundred copies of a revised edition of Senate Procedure, to be prepared by Charles L. Watkins, Parliamentarian, and Floyd M. Riddick, Assistant Parliamentarian, to be printed under the supervision of the authors and to be distributed to the Members of the Senate.

Sec. 2. That, notwithstanding any provisions of the copyright laws and regulations with respect to publications in the public domain, such edition of Senate Procedure shall be subject to copyright by the authors thereof.

§ 11.4 The House agreed to a joint resolution providing [illegible] printing [illegible] Cannon's [illegible]

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9. 111 CONG. REC. [illegible], 89th Cong. 1st Sess.

10. For a joint resolution postponing the [illegible] for the transmittal of the President's economic report and the report thereon by the Joint Economic Committee, see 115 CONG. [illegible] REC. [illegible], 91st Cong. 1st Sess., Dec. 22, 1969.

11. 109 CONG. REC. 19611, 88th Cong. 1st Sess.

[illegible]

[illegible] the use of the House [illegible] additional copies of "Cannon's Procedure in the House of Representatives" by Clarence Cannon, to be printed under the supervision of the author and to be distributed to the Members by the Speaker.

Sec. 2. That, notwithstanding any provision of the copyright laws and regulations with respect to publications in the public domain, "Cannon's Procedure in the House of Representatives" shall be subject to copyright by the author thereof.

Establishing a Joint Committee

§ 4.10 The House considered a joint resolution proposing the establishment of a joint committee to investigate crime.

On July 12, 1968,(13) the House considered the following joint resolution (H.J. Res. [illegible]):

Resolved by the Senate and House of [illegible] *Committee to Investigate Crime* [illegible]

[illegible]

[illegible]

§ 4.11 The House agreed to a joint resolution granting subpena powers to the commission appointed by the President to report on the assassination of President John F. Kennedy.

On Dec. 10, 1963,(15) the House considered and passed a joint resolution (S.J. Res. 137) stating in part:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) for the purposes of this joint resolution, the term "Commission" means the Commission appointed by the President by Executive Order 11130, dated November 29, 1963.

(b) The Commission, or any member of the Commission when so authorized by the Commission, shall have power [illegible]

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12. [illegible] Cong. Rec. [illegible], [illegible] Cong. 1st Sess.

13. 114 Cong. Rec. 21012, 90th Cong. 2d Sess.

14. [illegible] standing committees, see Ch. 17, supra.

15. 109 Cong. Rec. 23941, 88th Cong. 1st Sess.

[illegible]

§ 4.[illegible] The House considered a [illegible] appropriation for mileage of the Vice President, Senators, Representatives, Delegates, and Commissioner, and for pay of pages incidental to a special session of Congress.

On Sept. 25, 1939,(16) the House considered and passed the following joint resolution (H.J. Res. 384):

Resolved, etc., That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the payment of expenses incident to the second session of the Seventy-sixth Congress, namely:

For mileage of the President of the Senate and of Senators, $51,000.

For mileage of Representatives, the Delegate from Hawaii, and the Resident Commissioner from Puerto Rico, and for expenses of the Delegate from Alaska, $[illegible].

For the payment of [illegible] pages for the Senate and [illegible] pages for the House of Representatives, [illegible] second session thereof, so much as may [illegible]

[illegible] for each the Senate and [illegible]esentatives.

[illegible]onors

§ 4.[illegible] The House considered a joint resolution providing for a proclamation recognizing former President Truman's [illegible] in the creation of the United Nations.

On Sept. [illegible], 1968,(17) the House considered and passed the following joint resolution (H.J. Res. 1459):

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is hereby authorized and requested to issue on October 24, 1968, a proclamation recognizing the significant part which Harry S. Truman, as President of the United States, played in the creation of the United Nations.

§ 4.[illegible] The House considered a joint resolution providing for a joint session of Congress to commemorate the 150th anniversary of the birth of Abraham Lincoln.

On [illegible] 1958,(18) the House considered and passed the following joint resolution (H.J. Res. 648):

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16. 85 Cong. Rec. 16, 76th Cong. 2d Sess.

17. 114 Cong. Rec. 28327, 90th Cong. 2d Sess.

18. 104 Cong. Rec. 15019, 15020, 85th Cong. 2d Sess.

Whereas Thursday, February 12, 1959, will mark the 150th anniversary of the birth of Abraham Lincoln, 16th President of the United States; and

Whereas Mr. Lincoln is our best example of that personal fulfillment which American institutions permit and encourage; and . . .

Whereas on Monday, February 12, 1866, in the presence of the President of the United States, the members of his Cabinet, the Chief Justice and Associate Justices of the Supreme Court, the diplomatic corps, officers of the Army and Navy, assistant heads of departments, the governors of States and Territories, and others in authority, the two Houses of Congress convened in joint session to hear "an address upon the life and character of Abraham Lincoln, late President of the United States," pronounced by an eminent historian, the Honorable George Bancroft: Now, therefore, be it

Resolved, etc., That on Thursday, February 12 next, the sesquicentennial of the birth of Abraham Lincoln shall be commemorated by a joint session of the Congress, and to that end the President of the Senate will appoint 4 Members of the Senate and the Speaker of the House will appoint 4 Members of the House of Representatives jointly to constitute a Committee on Arrangements.

The Committee on Arrangements shall plan the proceedings, issue appropriate invitations, and select a distinguished Lincoln scholar to deliver the memorial address; and be it further

Resolved, That the President of the United States, the Vice President of the United States, the Chief Justice and Associate Justices of the Supreme Court, the diplomatic corps, assistant heads of departments, and the members of the Lincoln Sesquicentennial Commission be invited to join in this commemoration.

§ 4.15 The House considered a joint resolution providing for a ceremony to commemorate the 100th anniversary of Lincoln's second inauguration.

On June 23, 1964,(19) the House considered and passed the following joint resolution (H.J. Res. 925):

Whereas March 4, 1965, will be the one hundredth anniversary of the second inauguration of Abraham Lincoln as President of the United States; and

Whereas President Lincoln in his inaugural address looked to the end of a great fratricidal struggle and spoke, "with malice toward none and charity for all," of "a just and lasting peace among ourselves and with all nations"; and . . .

Whereas today a part of the aspirations which Abraham Lincoln held for the people of the United States has been achieved: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That on Wednesday, March 4 next, the one hundredth anniversary of Abraham Lincoln's second inauguration shall be commemorated by such observance as may be determined by the committee on arrangements in cooperation with the National Civil War Centennial Commission, the Civil War Centennial

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19. 110 Cong. Rec. 14699, 88th Cong. 2d Sess.

Commission of the District of Columbia, and the Lincoln Group of the District of Columbia.

Immediately upon passage of this resolution, the President of the Senate shall appoint four Members of the Senate and the Speaker of the House shall appoint four Members of the House of Representatives jointly to constitute a committee on arrangements.

Declaration of War

§ 4.16 The House adopted a joint resolution declaring war on Japan.

On Dec. 8, 1941,(20) the House passed the following joint resolution (H.J. Res. 254):

> Whereas the Imperial Government of Japan has committed repeated acts of war against the Government and the people of the United States of America: Therefore be it
>
> *Resolved, etc.,* That the state of war between the United States and the Imperial Government of Japan which has thus been thrust upon the United States is hereby formally declared; and that the President be, and he is hereby, authorized and directed to employ the entire naval and military forces of the United States and the resources of the Government to carry on war against the Imperial Government of Japan; and to bring the conflict to a successful termination all of the resources of the country are hereby pledged by the Congress of the United States.(1)

§ 4.17 The House adopted a joint resolution relating to hostilities in Southeast Asia and supporting the President's actions to repel aggression by North Vietnam.

On Aug. 7, 1964,(2) the House considered and passed the following joint resolution (H.J. Res. 1145):

> Whereas naval units of the Communist regime in Vietnam, in violation of the principles of the Charter of the United Nations and of international law, have deliberately and repeatedly attacked United States naval vessels lawfully present in international waters, and have thereby created a serious threat to international peace; and
>
> Whereas these attacks are part of a deliberate and systematic campaign of aggression that the Communist regime in North Vietnam has been waging against its neighbors and the nations

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20. 87 Cong. Rec. 9519, 9520, 77th Cong. 1st Sess.

1. For other joint resolution declaring war, see also: (1) against Rumania, 88 Cong. Rec. 4818, 77th Cong. 2d Sess., June 3, 1942; (2) against Hungary, 88 Cong. Rec. 4817, 77th Cong. 2d Sess., June 3, 1942; (3) against Bulgaria, 88 Cong. Rec. 4816, 77th Cong. 2d Sess., June 3, 1942; and (4) against Germany and Italy, 87 Cong. Rec. 9665, 9666, 77th Cong. 1st Sess., Dec. 11, 1941.

2. 110 Cong. Rec. 18538, 18539, 88th Cong. 2d Sess.

joined with them in the collective defense of their freedom; and

Whereas the United States is assisting the peoples of southeast Asia to protect their freedom and has no territorial, military or political ambitions in that area, but desires only that these peoples should be left in peace to work out their own destinies in their own way: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress approves and supports the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression.

Sec. 2. The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in southeast Asia. Consonant with the Constitution of the United States and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.

Sec. 3. This resolution shall expire when the President shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, except that it may be terminated earlier by concurrent resolution of the Congress.

§ 5. Concurrent Resolutions

Concurrent resolutions are used as a means by which the two Houses may concurrently express certain facts, or declare certain principles, opinions, or purposes. A concurrent resolution is binding on neither House until agreed to by both. They are not used in the adoption of general legislation. Concurrent resolutions are used in the adoption of joint rules, setting up joint committees, expressing the sense of Congress on propositions,(3) and in recent years as vehicles by which both Houses are permitted to approve or disapprove of certain executive actions, pursuant to laws containing mechanisms for such procedures (see *House Rules and Manual,* 97th Congress, "Congressional Disapproval" provisions contained in public laws).

The important practical consideration to be kept in mind in distinguishing joint and concurrent resolutions, in the current usage, is that only the former must be submitted to the President for his approval before taking effect. A concurrent resolution does not involve an exercise of the legislative power under article I of the Con-

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3. *Procedure in the U.S. House of Representatives* (97th Cong.) Ch. 24 § 1.3.

stitution in which the President must participate. The following language is found in article I, section 7, clause 3, of the Constitution:

> Every Order, Resolution, or Vote, to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him.

Since the passage of a concurrent resolution requires the concurrence of both Houses, it is possible to argue, on the basis of this language, that a concurrent resolution also requires submission to the President for his approval. However, the Congress has never accepted this literal interpretation. In 1897 the Committee on the Judiciary of the Senate issued a report on the nature of the concurrent resolution.(4) The committee found that:

> . . . [T]he Constitution looks beyond the mere form of a resolution in determining whether it should be presented to the President, and looks rather to the subject-matter of the resolution itself to ascertain whether it is one "to which the concurrence of the Senate and House of Representatives may be necessary."
>
> The Constitution prescribes no definite form in which legislation shall be framed. The manner by which the legislative will may be expressed seems to be left to the discretion of Congress, except that section 7 (article I) seems to imply that it is to be done *by bill*, as it expressly provides that "*every bill* which shall have passed the House of Representatives and the Senate shall, before it becomes a law, be presented to the President of the United States" (subdivision 2); and it is also to be implied from the provisions of subdivision 3 (article 1, sec. 7) that it *may* be done by "order, resolution, or vote," and in that case it must be presented to the President as "in the case of a bill."
>
> . . . [N]o "order, resolution, or vote" need be presented to the President unless its subject-matter is legislation to which the Constitution expressly requires in the first instance the assent of both Houses, matter to which such assent is constitutionally necessary. In other words, the phrase "to which the concurrence . . . may be necessary" should be held to refer to the "concurrence" made "necessary" by the other provisions of the Constitution and not to the mere form of the procedure; so that no mere resolution, joint, concurrent, or otherwise, need be presented to the President for his approval unless it relates to matter of legislation to which the Constitution requires the concurrence of both Houses of Congress and the approval of the President—in other words, unless such Congressional action be the exercise of "legislative powers" vested in Congress

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4. Senate Committee on the Judiciary, Inquiry in Regard to River and Harbor Act, S. Rept. No. 1335, 54th Cong. 2d Sess. (1897); 4 Hinds' Precedents § 3483.

under the provisions of section 1, article I.

Use of Concurrent Resolution

§ 5.1 Concurrent resolutions are not used in practice to enact legislation; but if they are so used, the approval of the President would be required.

On July 19, 1945,[5] the following memorandum was prepared and inserted in the Record by Senator Abe Murdock, of Utah:

MEMORANDUM ON CONCURRENT RESOLUTIONS

Article I, section 7, subdivision 3 of the Constitution of the United States provides:

"Every order, resolution, or vote, to which the concurrence of the Senate and the House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States."

While this constitutional provision would seem literally to require that every concurrent resolution be submitted to the President, the Senate Committee on the Judiciary has indicated that a somewhat more liberal reading of the constitutional provision may be warranted. Senate Report No. 1335, Fifty-fourth Congress, second session, was submitted pursuant to a resolution of the Senate which directed the Judiciary Committee to inquire, among other things, as to whether concurrent resolutions generally are required to be submitted to the President of the United States.

On the subject of concurrent resolutions, the committee report may be summarized as follows: Concurrent resolutions, except in a few early instances in which the resolution was neither designated as concurrent or joint, have not been used for the purposes of enacting legislation but to express the sense of Congress upon a given subject, to adjourn longer than 3 days, to make, amend, or suspend joint rules, and to accomplish similar purposes, in which both Houses have a common interest, but with which the President has no concern. They have never embraced legislative provisions proper, and hence have never been deemed to require Executive approval. While resolutions, other than joint resolutions, may conceivably embrace legislation, if they do so they require the approval of the President. But Revised Statutes, Second Edition, 1878, page 2, sections 7 and 8, prescribe the form of bills and joint resolutions, and it may properly be inferred that Congress did not intend or contemplate that any legislation should thereafter be enacted except by bill or joint resolution. That is a fair inference, because Congress provided no form for legislation by concurring resolution. Moreover, the rules of the respective Houses treat bills and joint resolutions alike, and do not contemplate that legislation shall be enacted in any other form or manner.

In substance, it was the conclusion of the committee that concurrent resolutions were, as a matter of congressional practice, never used to enact legislation, but that if they were so used the approval of the President would be required. The committee report concludes that—

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[5] 91 CONG. REC. 7809, 7810, 79th Cong. 1st Sess.

"Whether concurrent resolutions are required to be submitted to the President of the United States" must depend not upon their mere form but upon the fact whether they contain matter which is properly to be regarded as legislative in its character and effect. If they do, they must be presented for his approval; otherwise, they need not be. In other words, we hold that the clause in the Constitution which declares that every order, resolution, or vote must be presented to the President, to "which the concurrence of the Senate and House of Representatives may be necessary," refers to the necessity occasioned by the requirement of the other provisions of the Constitution whereby every exercise of "legislative power" involves the concurrence of the two Houses; and every resolution not so requiring two concurrent actions, to wit, not involving the exercise of legislative powers, need not be presented to the President. In brief, the nature or substance of the resolution, and not its form, controls the question of its disposition."

Cannon's Precedents of the House of Representatives, volume VII, section 1045, states that a "concurrent resolution" is not used in conveying title to Government property. His authority for this statement is that on January 15, 1923, a concurrent resolution declining a devise of land to be used as a national park was considered and agreed to with the following amendment:

Insert: *"Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled"* in lieu of *"the Senate (the House of Representatives concurring)."* (64 Congressional Record 1773.)

In section 1037 of volume VII, Cannon states that "a concurrent resolution is without force and effect beyond the confines of the Capitol." In addition, in section 1084, Cannon states that on June 1, 1920, the Senate was considering the concurrent resolution respectfully declining to grant to the Executive the power to accept a mandate over Armenia, as requested in the message of the President, when Mr. Hitchcock, of Nebraska, offered an amendment empowering the President to appoint American members of a joint commission to supervise certain fiscal relations of Armenia. Mr. Henry Cabot Lodge, of Massachusetts, presented a point of order to the effect that this was a concurrent resolution, that concurrent resolutions did not go to the President, but that since the proposed amendment was legislation requiring the assent of the President it would not be in order on a resolution which does not go to the President. Thomas R. Marshall, Vice President of the United States, said that so far as he was aware there was no opinion of the Supreme Court to the effect that a concurrent resolution need not go to the President, and consequently overruled the point of order which had been made against it.

In response to an inquiry from the Secretary of the Interior. Attorney General Caleb Cushing, on August 23, 1854, rendered an opinion in which he held that a declaratory resolution of either House of Congress is not obligatory against the judgment of the Executive. He characterized the contrary view as follows:

"According to the letter of the Constitution, resolutions of the two Houses, even a joint resolution, when submitted to the President and disapproved by him, do not acquire the force of law until passed anew by a concurrent vote of two-thirds of each House. On the present hypothesis, the better way would be not to present the resolution to the President at all, and then to call on him to accept it as law, with closed eyes, and, however against law he may know it to be, yet to execute it out of deference to the assumed opinion of Congress.

"In the second place, the hypothesis puts an end to all the forms of legislative scrutiny on the part of Congress. A declaratory law, especially if it involve the expenditure of the public treasure, has forms of legislation to go through to insure due consideration. All these time-honored means of securing right legislation will pass into desuetude, if the simple acceptance of a resolution, reported by a committee, is to be received as a constitutional enactment, obligatory on all concerned, including the Executive.

"In this way, instead of the revenues of the Government being subject only to the disposition of Congress in the form of a law constitutionally enacted, they will be transferred to the control of an accidential majority, expressing its will by a resolution, passed, it may be, out of time, and under circumstances, in which a law, duly and truly representing the will of Congress, could not have passed. And thus, all those checks and guards against the inconsiderate appropriation of the public treasure, so carefully devised by the founders of the Government, will be struck out of the Constitution." (6 Op. Attorney General 694.)

With specific reference to the authority of Congress to declare by resolution, without presentation to the President, the meaning of an existing law, the Attorney General stated (idem, p. 694):

"A mere vote of either or of both Houses of Congress, declaring its opinion of the proper construction of a general law, has, be it repeated, in itself, no constitutional force or obligation as law. It is opinion merely, and to be dealt with as such, receiving more or less of deference, like other mere opinions, according to the circumstances."

Establishing Joint Committees

§ 5.2 The House adopted a concurrent resolution, establishing a Joint Committee on the Organization of the Congress, reported by the House Committee on Rules.

On Mar. 3, 1965,(6) the Committee on Rules of the House of Representatives reported the following privileged resolution (H. Con. Res. 4):

Resolved by the House of Representatives (the Senate concurring), That there is hereby established a Joint Committee on the Organization of the Congress (hereinafter referred to as the committee) to be composed of six Members of the Senate (not more than

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6. 111 Cong. Rec. 3995, 89th Cong. 1st Sess.

three of whom shall be members of the majority party) to be appointed by the President of the Senate, and six Members of the House of Representatives (not more than three of whom shall be members of the majority party) to be appointed by the Speaker of the House of Representatives. The committee shall select a chairman and a vice chairman from among its members. No recommendation shall be made by the committee except upon a majority vote of the members representing each House, taken separately.

Sec. 2. The committee shall make a full and complete study of the organization and operation of the Congress of the United States and shall recommend improvements in such organization and operation with a view toward strengthening the Congress, simplifying its operations, improving its relationship with other branches of the United States Government, and enabling it better to meet its responsibilities under the Constitution . . .

(d) The committee shall report from time to time to the Senate and the House of Representatives the results of its study, together with its recommendations, the first report being made not later than one hundred and twenty days after the effective date of this concurrent resolution. If the Senate, the House of Representatives, or both, are in recess or have adjourned, the report shall be made to the Secretary of the Senate or the Clerk of the House of Representatives, or both, as the case may be. All reports and findings of the committee shall, when received, be referred to the Committee on Rules and Administration of the Senate and the appropriate committees of the House.(7)

§ 5.3 The Joint Committee on Hawaii was created by a concurrent resolution.

On Aug. 21, 1937,(8) the House agreed to the following concurrent resolution (S. Con. Res. 18):

> *Resolved by the Senate (the House of Representatives concurring),* That there is hereby created a joint congressional committee to be known as the Joint Committee on Hawaii, which shall be composed of not to exceed 12 Members of the Senate, to be appointed by the President of the Senate, and not to exceed 12 Members of the House of Representatives and the Delegate from Hawaii, to be appointed by the Speaker of the House of Representatives. The committee shall select a chairman from among its members. The committee shall cease to exist upon making its report to Congress pursuant to this resolution.

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7. On Mar. 11, 1965 (*Id.* at pp. 4768–80) following the passage of H. Con. Res. 4, S. Con. Res. 2 (an identical resolution) was taken from the Speaker's table and agreed to. The language of this concurrent resolution was similar to that employed in the 79th Congress in setting up a joint committee to study a proposal which resulted in the Legislative Reorganization Act of 1946. See H. Con. Res. 18, 79th Cong., H. Jour. pp. 80, 137, 79th Cong. 1st Sess.

8. 81 Cong. Rec. 9624, 75th Cong. 1st Sess.

Sec. 2. The committee is authorized and directed to conduct a comprehensive investigation and study of the subject of statehood and of other subjects relating to the welfare of the Territory of Hawaii. The committee shall report to the Senate and to the House of Representatives not later than January 15, 1938, the results of its investigation and study, together with its recommendations for such legislation as it deems necessary or desirable.

Sec. 3. For the purpose of this resolution, the committee is authorized to sit and act, as a whole or by subcommittee, at such times and places as it deems advisable, to hold such hearings, to administer such oaths and affirmations, to take such testimony, and to have such printing and binding done as it deems necessary.

§ 5.4 A concurrent resolution is used to provide for the appointment of a joint committee for the inauguration of the President-elect.

On May 5, 1948,(9) the House considered and agreed to the following concurrent resolution (S. Con. Res. 48):

> *Resolved by the Senate (the House of Representatives concurring),* That a joint committee consisting of three Senators and three Representatives, to be appointed by the President pro tempore of the Senate and the Speaker of the House of Representatives, respectively, is authorized to make the necessary arrangements for the inauguration of the President-elect of the United States on the 20th day of January 1949.

§ 5.5 A concurrent resolution provided for the appointment of a joint committee to formulate plans for the commemoration of the anniversary of the death of General Lafayette.

On Feb. 2, 1934,(10) the House considered and passed the following concurrent resoluton (H. Con. Res. 26):

> *Resolved by the House of Representatives (the Senate concurring),* That there is hereby established a special joint congressional committee to be composed of five members of the Senate to be appointed by the President of the Senate and five members of the House of Representatives, to be appointed by the Speaker of the House of Representatives, which shall make appropriate arrangements for the commemoration of the one-hundredth anniversary of the death of General Lafayette, occurring on May 20, 1934.

Authorizing Hearings

§ 5.6 The Joint Committee on Washington Metropolitan Problems was authorized, by concurrent resolution, to hold hearings and report to the Committee on the District of Columbia of the Senate and House on two bills "to aid in the development

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9. 94 Cong. Rec. 5321, 80th Cong. 2d Sess.

10. 78 Cong. Rec. 1889, 73d Cong. 2d Sess.

of an integrated system of transportation for the National Capital region."

On Apr. 21, 1960,(11) the House considered and agreed to the following concurrent resolution (S. Con. Res. 101) from consideration of which the Rules Committee had been discharged:

> *Resolved by the Senate (the House of Representatives concurring),* That the Joint Committee on Washington Metropolitan Problems, created by House Concurrent Resolution 172, agreed to August 29, 1957 [and extended by S. Con. Res. 2 in the 86th Congress], is hereby authorized to hold public hearings on the bills S. 3193 and H.R. 11135, and to furnish transcripts of such hearings, and make such recommendations as it sees fit, to the Committees on the District of Columbia of the Senate and House of Representatives, respectively.

Additional Committee Funds

§ 5.7 The House agreed to a concurrent resolution providing additional funds for the Joint Committee on the Organization of the Congress.

On Jan. 27, 1966,(12) the House agreed to the following concurrent resolution (S. Con. Res. 69) which had been called up for consideration pursuant to a unanimous-consent request by Mr. Ray J. Madden, of Indiana:

> *Resolved by the Senate (the House of Representatives concurring),* That the Joint Committee on the Organization of the Congress, established by Senate Concurrent Resolution 2, Eighty-ninth Congress, agreed to March 11, 1965, is hereby authorized, from February 1, 1966, through December 31, 1966, to expend not to exceed $140,000 from the contingent fund of the Senate upon vouchers approved by the chairman of the joint committee.

Adjournments

§ 5.8 The House agreed to a Senate concurrent resolution providing for sine die adjournment of Congress.

On Nov. 21, 1929,(13) the House considered and agreed to the following privileged Senate concurrent resolution (S. Con. Res. 19):

> *Resolved by the Senate (the House of Representatives concurring),* That the President of the Senate and the Speaker of the House of Representatives be authorized to close the present session of the Congress by adjourning their respective Houses on Friday, November 22, 1929, at the following hours, namely: the Senate at the hour of 10 o'clock p.m., and the House at such hour as it may by order provide.

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11. 106 CONG. REC. 8546, 86th Cong. 2d Sess.
12. 112 CONG. REC. 1341, 89th Cong. 2d Sess.
13. 71 CONG. REC. 5916, 71st Cong. 1st Sess.

§ 5.9 The House passed a concurrent resolution providing for adjournment sine die and giving the consent of the House to an adjournment sine die of the Senate at any time prior to Dec. 25, 1954.

On Aug. 20, 1954,(14) the House considered and agreed to a Senate amendment to a concurrent resolution (H. Con. Res. 266):

> Strike out all after the enacting clause and insert "That the House of Representatives shall adjourn on August 20, 1954, and that when it adjourns on said day, it stand adjourned sine die.
>
> "*Resolved further,* That the consent of the House of Representatives is hereby given to an adjournment sine die of the Senate at any time prior to December 25, 1954, when the Senate shall so determine; and that the Senate, in the meantime may adjourn or recess for such periods in excess of 3 days as it may determine."

§ 5.10 Adjournments of more than three days have been effected pursuant to concurrent resolution.

On June 22, 1940,(15) the House adopted the following privileged concurrent resolution (H. Con. Res. 83):

> *Resolved by the House of Representatives (the Senate concurring),* That when the two Houses adjourn on Saturday, June 22, 1940, they stand adjourned until 12 o'clock meridian, Monday, July 21, 1940.

§ 5.11 The House adopted a concurrent resolution providing that the House adjourn from July 21 to Oct. 8, 1945, and consenting to a Senate adjournment during the month of August or September until Oct. 8, 1945; the resolution also made provision for the earlier reassembling of the two Houses by the leadership if legislative expediency should so warrant.

On July 18, 1945,(16) the House considered and agreed to the following concurrent resolution (H. Con. Res. 68):

> *Resolved by the House of Representatives (the Senate concurring),* That when the House adjourns on Saturday, July 21, 1945, it stand adjourned until 12 o'clock meridian on Monday, October 8, 1945, or until 12 o'clock meridian on the third day after Members are notified to reassemble in accordance with section 3 of this concurrent resolution, whichever occurs first.
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> Sec. 2. That the consent of the House of Representatives is hereby given to an adjournment of the Senate at any

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(14) 100 Cong. Rec. 15554, 83d Cong. 2d Sess.

(15) 86 Cong. Rec. 9085, 76th Cong. 3d Sess.

(16) 91 Cong. Rec. 7733, 7734, 79th Cong. 1st Sess.

time during the month of August or September, 1945, until 12 o'clock meridian on Monday, October 8, 1945, or until 12 o'clock meridian on the third day after Members are notified to reassemble in accordance with section 3 of this concurrent resolution, whichever occurs first.

Sec. 3. The President pro tempore of the Senate and the Speaker of the House of Representatives shall notify the Members of the Senate and the House, respectively, to reassemble whenever in their opinion legislative expediency shall warrant it or whenever the majority leader of the Senate and the majority leader of the House, acting jointly, or the minority leader of the Senate and the minority leader of the House, acting jointly, file a written request with the Secretary of the Senate and the Clerk of the House that the Congress reassemble for the consideration of legislation.

Changing Text Agreed to by Both Houses

§ 5.12 Changes in the text of a joint resolution agreed to by the two Houses (but not yet sent to the President) may be made by concurrent resolution, called up by unanimous consent, which directs the Clerk to make corrections in the enrollment of the joint resolution.

On Feb. 1, 1937,(17) the House was considering a Senate amendment to a joint resolution (H.J. Res. 81) creating a Joint Committee on Government Organization which had passed both the House and the Senate. Mr. John E. Rankin, of Mississippi, offered an amendment to the Senate amendment, but the Speaker(18) ruled it out of order because it amended language in the resolution to which both Houses had already agreed. The Speaker then indicated that the proposed change could be effected by concurrent resolution:(19)

Mr. [Claude A.] Fuller [of Arkansas]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Fuller: Cannot that be amended by unanimous consent?

The Speaker: The only way under the rules of the House by which this situation could be changed would be by a concurrent resolution, agreed to by both Houses, changing the text of the matter already passed upon by the House and accepted by the Senate.

§ 5.13 Items in an appropriation bill which were not in disagreement between the two Houses, and hence not committed to the conferees, were changed

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(17) 81 Cong. Rec. 646–48, 75th Cong. 1st Sess.

(18) William B. Bankhead (Ala.).

(19) See 7 Cannon's Precedents §§ 1041, 1042 for instances in which concurrent resolutions were used to amend bills agreed to by both Houses.

through adoption of a concurrent resolution called up unanimous consent.

On July 23, 1962,(20) the House adopted a concurrent resolution (H. Con. Res. 505) ordering the Clerk of the House to make certain changes in the enrollment of a bill (H.R. 11038) making supplemental appropriations for the fiscal year 1962. Mr. Albert Thomas, of Texas, asked unanimous consent that further reading of the resolution be dispensed with so that he could explain the purpose of the resolution. The proceedings were as follows:

SECOND SUPPLEMENTAL APPROPRIATION BILL, 1962

MR. THOMAS: Mr. Speaker, pursuant to the unanimous agreement of last Friday,(21) I call up for consideration a House concurrent resolution.

The Clerk read as follows:

H. CON. RES. 505

> *Resolved by the House of Representatives (the Senate concurring),* That the Clerk of the House of Representatives be authorized and directed in the enrollment of the bill H.R. 11038 to make the following changes in the engrossed House bill:
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> (1) Page 2, strike out lines 13 to 16 inclusive. . . .
>
> (28) Page 14, strike out lines 4 to 7, inclusive.
>
> (29) Page 14, strike out lines 17 to 21, inclusive.

MR. THOMAS (interrupting reading of the House concurrent resolution): Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with. I shall attempt to explain what it is.

THE SPEAKER:(22) Is there objection to the request of the gentleman from Texas?

There was no objection.

MR. THOMAS: Mr. Speaker, it will be recalled this deals with what we call the second supplemental appropriation bill for 1962. When the supplemental left the House it had 55 items carrying about $447 million, which was a reduction, in round fgures, of $100 million under the budget, a reduction of about 20 percent.

It went to the other body and that body added some 29 items, increasing the amount over the House by $112 million, which made a round figure of about $560 million.

We bring to you two items, one a concurrent resolution and the other a conference report. First, why the concurrent resolution? We put in the concurrent resolution some 29 items which were originally in the supplemental, but those 29 items are a reduction—follow me now—below the figure that was in the supplemental when it left the House and the figure when it left the Senate.

It is a complete reduction and a change. It is in the concurrent resolution because it could not be in the con-

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20. 108 CONG. REC. 14400, 14403, 87th Cong. 2d Sess.

21. See 108 CONG. REC. 14364, 87th Cong. 2d Sess., July 20, 1962, for the unanimous-consent request "to consdier on Monday next a concurrent resolution in connection with . . . H.R. 11038."

22. Sam Rayburn (Tex.).

ference report, and the reason it could not be in the conference report is because it is a reduction in those amounts. . . .

The previous question was ordered.

THE SPEAKER: The question is on the resolution.

The concurrent resolution was agreed to.[1]

Rescinding Passage of Bill

§ 5.14 The House agreed to a concurrent resolution rescinding the action of the two Houses in connection with the passage of a private bill and providing that the bill be postponed indefinitely.

On Feb. 7, 1952,[2] the House by unanimous consent considered and agreed to the following concurrent resolution (S. Con. Res. 88):

> *Resolved by the Senate (the House of Representatives concurring),* That the action of the two Houses in connection with the passage of the bill (S. 1236) for the relief of Kim Song Nore be rescinded, and that the said bill be postponed indefinitely.

Rescinding Resolution of Adjournment

§ 5.15 A concurrent resolution was submitted proposing to rescind a concurrent resolution adjourning the House to a day certain.

On Aug. 23, 1951,[3] Mr. John E. Rankin, of Mississippi, offered a resolution (H. Con. Res. 152):

> *Resolved by the House of Representatives (the Senate concurring),* That House Concurrent Resolution 151, Eighty-second Congress, is hereby repealed.

Mr. J. Percy Priest, of Tennessee, then interjected a motion that the House adjourn, and that motion was considered and agreed to [the motion to adjourn taking precedence over a concurrent resolution proposing to rescind a concurrent resolution adjourning the House to a day certain]. Thereupon the House adjourned until Sept. 12, 1951, in accordance with the terms of House Concurrent Resolution 151.

Authorization to Conference Managers

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[1] *Parliamentarian's Note:* The second supplemental appropriation bill, H.R. 11038, was passed by the House on Mar. 30, and by the Senate, amended, on Apr. 6, 1962. The conference report was not filed until July 20. Since fiscal year 1962 expired on June 30, there was no longer a need for some of the funds carried in the bill when it passed the two Houses. To eliminate the sums no longer required, but not in disagreement, the concurrent resolution was agreed to.

[2] 98 CONG. REC. 934, 82d Cong. 2d Sess.

[3] 97 CONG. REC. 10586, 82d Cong. 1st Sess.

§ 5.16 By concurrent resolution, the managers of a conference may be authorized to consider amendments inadvertently omitted from the official papers.

On July 20, 1956,(4) Mr. Clair Engle, of California, asked unanimous consent for the immediate consideration of the concurrent resolution (S. Con. Res. 86) authorizing the conferees on H.R. 1774, abolishing the Verendrye National Monument, North Dakota, to consider certain Senate amendments that were inadvertently omitted from the official papers and not originally disagreed to by the House.

The resolution was as follows:

> *Resolved by the Senate (the House of Representatives concurring),* That the conferees on H.R. 1774, in addition to the Senate amendments already pending before them, be authorized to consider the following amendments:
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> "(3) Page 1, line 6, strike out all after 'permits' down to and including 'site' in line 8.
>
> "(4) Page 1, strike out all after line 8 over to and including line 5 on page 2."

There was no objection, and the concurrent resolution was agreed to.

Amending Conference Report

§ 5.17 The House agreed to a concurrent resolution amending a conference report that had been agreed to by the two Houses.

On Feb. 27, 1931,(5) the House by unanimous consent considered and agreed to the following concurrent resolution (H. Con. Res. 52):

> *Resolved by the House of Representatives (the Senate concurring),* That the report of the Committee of Conference on the disagreeing votes of the two Houses on the bill of the House (H.R. 980) entitled "An Act to permit the United States to be made a party defendant in certain cases," heretofore agreed to by the two Houses be amended by adding at the end of the amendment agreed to in the report the following new section:
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> > Sec. 7. This act shall not apply to any lien of the United States held by it for its benefit under the Federal Reclamation laws.

Rescinding Appointment of Conferees

§ 5.18 The House agreed to a concurrent resolution of the Senate rescinding the action of the two Houses in appointing conferees and providing for the return of the bill to the Senate for further amendment.

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4. 102 Cong. Rec. 13724, 84th Cong. 2d Sess.

5. 74 Cong. Rec. 6279, 6280, 71st Cong. 3d Sess.

On May 20, 1940,(6) the House, by unanimous consent, agreed to the following concurrent resolution (S. Con. Res. 47):

> *Resolved by the Senate (the House of Representatives concurring),* That the action of the two Houses, respectively, with reference to the appointment of conferees on the bill (H.R. 8438) making appropriations for the Navy Department and the naval service for the fiscal year ending June 30, 1941, and for other purposes, be, and it is hereby, rescinded; and that the bill, with the accompanying papers, be returned to the Senate.

Providing for Joint Session

§ 5.19 A joint session to receive a communication from the President is provided for by concurrent resolution.

On Jan. 3, 1935,(7) the House considered and agreed to the following concurrent resolution (H. Con. Res. 1):

> *Resolved by the House of Representatives (the Senate concurring),* That the two Houses of Congress assemble in the Hall of the House of Representatives on Friday, the 4th day of January, 1935, at 12:30 o'clock in the afternoon, for the purpose of receiving such communications as the President of the United States shall be pleased to make to them.(8)

§ 5.20 The House agreed to a concurrent resolution providing for a joint session of the two Houses to commemorate the 200th anniversary of George Washington's birthday.

On Jan. 20, 1932,(9) the House, by unanimous consent, considered and agreed to the following concurrent resolution (H. Con. Res. 12):

> *Resolved by the House of Representatives (the Senate concurring),* That in commemoration of the two-hundredth anniversary of the birth of George Washington the two Houses of Congress shall assemble in the Hall of the House of Representatives at 11:30 o'clock a.m. on Monday, February 22, 1932.
>
> That the President of the United States, as the Chairman of the United States Commission for the celebration of the two-hundredth anniversary of the birth of George Washington, is hereby invited to address the American people in the presence of the Congress in commemoration of the bicentennial anniversary of the birth of the first President of the United States.

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6. 86 Cong. Rec. 6463, 76th Cong. 3d Sess.
7. 79 Cong. Rec. 15, 74th Cong. 1st Sess.
8. This is the customary form for the concurrent resolution convening a joint session to hear the President's state of the Union message. For similar examples, see 113 Cong. Rec. 34, 35, 90th Cong. 1st Sess, Jan. 10, 1967; 109 Cong. Rec. 23, 88th Cong. 1st Sess., Jan. 9, 1963; and 100 Cong. Rec. 8, 83d Cong. 2d Sess., Jan. 6, 1954.
9. 75 Cong. Rec. 2342, 72d Cong. 1st Sess.

That invitations to attend the ceremony be extended to members of the cabinet, the Chief Justice and associate justices of the Supreme Court of the United States, the Diplomatic Corps (through the Secretary of State), the General of the Armies, the Chief of Naval Operations, and the Major General Commandant of the Marine Corps, and such other persons as the Joint Committee on Arrangements shall deem proper.

§ 5.21 The House agreed to a concurrent resolution providing for a joint session of the two Houses to receive a message from the President; such session to commence immediately following the joint session to count the electoral vote.

On Jan. 6, 1945,(10) the House considered and agreed to the following concurrent resolution (S. Con. Res. 2):

> *Resolved by the Senate (the House of Representatives concurring),* That the two Houses of Congress assemble in the Hall of the House of Representatives on Saturday, the 6th of January 1945, immediately following the counting of the electoral votes for President and Vice President, as provided for in Senate Concurrent Resolution 1, for the purpose of receiving such communications as the President of the United States shall be pleased to make to them.

The terms "joint meeting" and "joint session" have distinct meanings. "Joint meeting" is properly used to describe joint proceedings during recesses of the two Houses for purposes that are usually ceremonial, while "joint session" refers to actual sessions of both Houses that have some legislative purpose, or which are prescribed by law as the count of the electoral vote (3 USC § 15).

§ 5.22 A concurrent resolution providing for a joint session of the House and the Senate to receive a message from the President is privileged.

On May 20, 1935(11) Mr. Edward T. Taylor, of Colorado, asked for the immediate consideration of a concurrent resolution (H. Con. Res. 22) providing for a joint session of the House and Senate to receive a message from the President.

> THE SPEAKER:(12) The question is on the resolution.
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> MR. [THOMAS L.] BLANTON [of Texas]: Mr. Speaker, reserving the right to object, I wish to ask a question.
>
> THE SPEAKER: The Chair is of the opinion that this is a privileged resolution.

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(10) 91 CONG. REC. 63, 79th Cong. 1st Sess.

(11) 79 CONG. REC. 7838, 74th Cong. 1st Sess.

(12) Joseph W. Byrns (Tenn.).

§ 5.23 The House agreed to a concurrent resolution providing for a joint session of the two Houses to count the electoral votes for President and Vice President.

On Jan. 5, 1937,(13) the House considered and agreed to the following concurrent resolution (S. Con. Res. 2):

> *Resolved by the Senate (the House of Representatives concurring),* That the two Houses of Congress shall meet in the Hall of the House of Representatives on Wednesday, the 6th day of January 1937, at 1 o'clock p.m., pursuant to the requirements of the Constitution and laws relating to the election of President and Vice President of the United States, and the President of the Senate shall be their presiding officer; that two tellers shall be previously appointed by the President of the Senate on the part of the Senate and two by the Speaker on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States beginning with the letter A; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner and according to the rules by law provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

§ 5.24 The House agreed to a concurrent resolution providing for a joint session to hear an address by the President of Brazil.

On May 9, 1949,(14) the House considered and agreed to the following concurrent resolution (H. Con. Res. 59):

> *Resolved by the House of Representatives (the Senate concurring),* That the two Houses of Congress assemble in the Hall of the House of Representatives on Thursday, the 19th day of May 1949, at 12:30 o'clock p.m., for the purpose of hearing an address by His Excellency Eurico Gaspar Dutra, President of the United States of Brazil.

Parliamentarian's Note: This appears to have been a joint session, but most such occasions are joint meetings which are arranged informally by each House granting permission for a recess on the day agreed upon without a concurrent resolution being used.

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13. 81 Cong. Rec. 14, 75th Cong. 1st Sess.

14. 95 Cong. Rec. 5909, 81st Cong. 1st Sess.

Legislative Budget

§ 5.25 A legislative budget for a fiscal year was established by concurrent resolution.

On Feb. 27, 1948,(15) the House considered the following concurrent resolution (S. Con Res. 42) which had been made in order for consideration by the adoption of House Resolution 485:

> *Resolved by the Senate (the House of Representatives concurring),* That it is the judgment of the Congress, based upon presently available information, that revenues during the period of the fiscal year 1949 will approximate $47,300,000,000 and that expenditures during such fiscal year should not exceed $37,200,000,000, of which latter amount not more than $26,600,000,000 would be in consequence of appropriations hereafter made available for obligation in such fiscal year.

Providing Facilities for Prayer

§ 5.26 A concurrent resolution authorized the Architect of the Capitol to make available a room, with facilities for prayer and meditation, for the use of Members of the Senate and House.

On July 17, 1953,(16) the House, by unanimous consent, considered and agreed to the following concurrent resolution (H. Con. Res. 60):

> *Resolved by the House of Representatives (the Senate concurring),* That the Architect of the Capitol is hereby authorized and directed to make available a room, with facilities for prayer and meditation, for the use of Members of the Senate and House of Representatives. The Architect shall maintain the prayer room for individual use rather than assemblies and he shall provide appropriate symbols of religious unity and freedom of worship.

Attendance at Foreign Meeting

§ 5.27 A concurrent resolution provided for the acceptance of an invitation to attend a meeting of the Empire Parliamentary Association and for the appointment of certain Members to a delegation thereto.

On June 22, 1943,(17) the House considered and agreed to the following concurrent resolution (S. Con. Res. 14):

> *Resolved by the Senate (the House of Representatives concurring),* That the Senate and the House of Representatives hereby accept the invitation tendered by the Speaker of the Senate of Canada and joint-president of the Empire Parliamentary Association, Dominion of Canada branch, to have four Members of the Senate and four Members of the House of Representatives

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15. 94 Cong. Rec. 1875–85, 80th Cong. 2d Sess.
16. 99 Cong. Rec. 9073–76, 83d Cong. 1st Sess.
17. 89 Cong. Rec. 6268, 78th Cong. 1st Sess.

attend a meeting to be held in Ottawa, Canada, during the period June 26 to July 1, 1943, at which the Dominion of Canada Branch of the Empire Parliamentary Association will be host to a delegation from the United Kingdom Parliament and probably to delegations from the legislative bodies of Australia, New Zealand, and Bermuda. The President of the Senate and the Speaker of the House of Representatives are authorized to appoint the Members of the Senate and the Members of the House of Representatives, respectively, to attend such meeting and are further authorized to designate the chairmen of the delegations from each of the Houses. The expenses incurred by the members of the delegations appointed for the purpose of attending such meeting, which shall not exceed $1,000 for each of the delegations, shall be reimbursed to them from the contingent fund of the House of which they are Members, upon the submission of vouchers approved by the chairman of the delegation of which they are members.

Honoring Former Presidents

§ 5.28 A concurrent resolution may be used by the Congress to extend birthday greetings to a former President of the United States.

On Aug. 2, 1949,(18) the House, by unanimous consent, considered and agreed to the following concurrent resolution (S. Con. Res. 59):

> *Resolved by the Senate (the House of Representatives concurring),* That the Congress hereby extends to the Honorable Herbert Hoover, our only living ex-President, its cordial birthday greetings on his seventy-fifth birthday, and expresses its admiration and gratitude for his devoted service to his country and to the world; and that the Congress hereby expresses its hope that he be spared for many more years of useful and honorable service; and be it further
>
> *Resolved,* That the Secretary of the Senate transmit a copy of this resolution to Mr. Hoover.

§ 5.29 By concurrent resolution a day was set aside for appropriate exercises in commemoration of the life, character, and public service of former President Franklin D. Roosevelt.

On May 23, 1946,(19) the House, by unanimous consent, considered the following concurrent resolution (H. Con. Res. 152):

> *Resolved,* That Monday, the 1st day of July 1946, be set aside as the day upon which there shall be held a joint session of the Senate and the House of Representatives for appropriate exercises in commemoration of the life, character, and public service of the

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18. 95 Cong. Rec. 10628, 81st Cong. 1st Sess.

19. 92 Cong. Rec. 5559, 79th Cong. 2d Sess.

late Franklin D. Roosevelt, former President of the United States.

That a joint committee, to consist of three Senators and five Members of the House of Representatives, to be appointed by the President pro tempore of the Senate and the Speaker of the House of Representatives, respectively, shall be named, with full power to make all arrangements and publish a suitable program for the joint session of Congress herein authorized, and to issue the invitations hereinafter mentioned.

That invitations shall be extended to the President of the United States, the members of the Cabinet, the Chief Justice and Associate Justices of the Supreme Court of the United States, and such other invitations shall be issued as to the said committee shall seem best.

That all expenses incurred by the committee in the execution of the provisions of this resolution shall be paid, one-half from the contingent fund of the Senate and one-half from the contingent fund of the House of Representatives.

Honoring Military Figures

§ 5.30 The House agreed to a concurrent resolution tendering the thanks of Congress to General of the Army Douglas MacArthur.

On July 20, 1962,(20) the House, by unanimous consent, considered and agreed to the following concurrent resolution (H. Con. Res. 347):

Resolved by the House of Representatives (the Senate concurring), That the thanks and appreciation of the Congress and the American people are hereby tendered to General of the Army Douglas MacArthur, in recognition of his outstanding devotion to the American people, his brilliant leadership during and following World War II, and the unsurpassed affection held for him by the people of the Republic of the Philippines which has done so much to strengthen the ties of friendship between the people of that nation and the people of the United States.(1)

§ 5.31 The House agreed to a concurrent resolution authorizing the use of the rotunda of the Capitol for lying-in-state ceremonies for the body of General of the Army Douglas MacArthur.

On Apr. 6, 1964,(2) the House, by unanimous consent, considered and agreed to the following concurrent resolution (S. Con. Res. 74):

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(20) 108 Cong. Rec. 14329, 14330, 87th Cong. 2d Sess.

(1) See also concurrent resolution commending Lt. Col. John H. Glenn, USMC, on successfully completing the first United States manned orbital space flight. 108 Cong. Rec. 2608, 87th Cong. 2d Sess., Feb. 20, 1962.

(2) 110 Cong. Rec. 6878, 88th Cong. 2d Sess.

> *Resolved by the Senate (the House of Representatives concurring),* That in recognition of the long and distinguished service rendered by Douglas MacArthur, General of the Army of the United States, the remains be permitted to lie in state in the rotunda of the Capitol from April 8 to April 9, 1964, and the Architect of the Capitol, under the direction and supervision of the President pro tempore of the Senate and the Speaker of the House of Representatives, shall take all necessary steps for the accomplishment of that purpose.

Honoring Foreign Governments

§ 5.32 The House agreed to a concurrent resolution amending a concurrent resolution providing for a joint session in commemoration of the 50th anniversary of the liberation of Cuba.

On Apr. 14, 1948,(3) the House considered and agreed to the following concurrent resolution (H. Con. Res. 184):

> *Resolved by the House of Representatives (the Senate concurring),* That the first paragraph of House Concurrent Resolution 139, Eightieth Congress, is hereby amended to read as follows:
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> "That in commemoration of the fiftieth anniversary of the liberation of Cuba, the two Houses of Congress shall assemble in the Hall of the House of Representatives at 12 o'clock meridian, on Monday, April 19, 1948."

§ 5.33 The House agreed to a concurrent resolution extending the congratulations of Congress to the Finnish Parliament on its 50th anniversary.

On Nov. 27, 1967,(4) the House considered and agreed to the following concurrent resolution (S. Con. Res. 49):

> Whereas the year 1967 marks the fiftieth anniversary of the independence of Finland; and
>
> Whereas these fifty years have been marked by close ties of friendship and association between Finland and the United States: Now, therefore, be it
>
> *Resolved by the Senate (the House of Representatives concurring),* That the Congress of the United States extends its congratulations and best wishes to the Parliament of Finland on the occasion of the fiftieth anniversary of the independence of Finland and in affirmation of the affection and friendship of the people of the United States for the people of Finland.(5)

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3. 94 Cong. Rec. 4437, 80th Cong. 2d Sess.

4. 113 Cong. Rec. 33762, 33763, 90th Cong. 1st Sess.

5. *Parliamentarian's Note:* The concurrent resolution was enrolled on parchment, signed by the Speaker and the Vice President, and transmitted to the Secretary of State. The Secretary in turn saw to it that the resolution was included in the next diplomatic pouch to Finland.

Honoring Royalty

§ 5.34 The House agreed to a concurrent resolution to assemble the House and the Senate in the rotunda to welcome the King and Queen of Great Britain and appointing a joint committee to make necessary arrangements.

On May 23, 1939,(6) the House, by unanimous consent, considered and agreed to the following concurrent resolution (S. Con. Res. 17):

> *Resolved by the Senate (the House of Representatives concurring)*. That the two Houses of Congress shall assemble in their respective Houses on Friday, June 9, 1939, at 10:30 o'clock antemeridian, and thereafter, in recess, the Members of each House shall proceed informally to the rotunda of the Capitol at 11 o'clock antemeridian, for the purpose of welcoming Their Majesties the King and Queen of Great Britain, and the members of their party, on the occasion of their visit to the Capitol, and at the conclusion of such ceremonies the two Houses shall reassemble in their respective Chambers.
>
> That a joint committee consisting of three Members of the Senate, to be appointed by the President of the Senate, and three Members of the House of Representatives, to be appointed by the Speaker of the House, is hereby authorized to make the necessary arrangements for carrying out the purpose of this concurrent resolution.(7)

§ 6. Simple Resolutions

Cross References

Simple resolutions as related to House-Senate conferences, Ch. 33, infra.

Simple resolutions as related to privileges of the House or a Member, Ch. 11, supra.

Simple resolutions and special orders, Ch. 21, supra.

Use of Simple Resolution

§ 6.1 Simple resolutions are used in dealing with nonlegislative matters such as expressing opinions or facts, creating and appointing committees, calling on departments for information, reports, and the like. Except as specifically provided by law, they have no legal effect, and require no action by the other House. Containing no legislative provisions, they are not presented to the President of the United States for his approval, as in the case of bills and joint resolution.

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6. 84 Cong. Rec. 6032, 76th Cong. 1st Sess.

7. See also S. Con. Res. 20, 84 Cong. Rec. 7151, 76th Cong. 1st Sess., June 19, 1939, authorizing expenses from the contingent funds of the two Houses for the reception of the King and Queen of Great Britain in the rotunda of the Capitol.

On Oct. 29, 1943,(8) during consideration in the Senate of a Senate resolution (S. Res. 192) declaring certain aims of the United States abroad, the following discussion took place:

Mr. [John A.] Danaher [of Connecticut]: Under the precedents of the Senate, does a Senate resolution have legislative effect?

The Presiding Officer:(9) The Chair understands the question to be, Under the precedents of the Senate, does a resolution of the kind now pending before the Senate have legislative effect?

Mr. Danaher: That is correct.

The Presiding Officer: In the opinion of the present occupant of the chair, the answer is "No."

Mr. Danaher: Mr. President, a further parliamentary inquiry.

The Presiding Officer: The Senator will state it.

Mr. Danaher: Is such a resolution, if adopted, binding upon a succeeding Senate?

The Presiding Officer: In the opinion of the present occupant of the chair, the answer is the same as the answer to the previous question—"Absolutely no."

Mr. Danaher: Mr. President, a further parliamentary inquiry.

The Presiding Officer: The Senator will state it.

Mr. Danaher: Does a Senate resolution, if adopted, have a greater effect than to reflect the views of the largest number of Senators agreeing thereto, who are present and voting for it?

Mr. [Joel Bennett] Clark of Missouri: Mr. President, I make the point of order that that is not a parliamentary inquiry; neither were the two preceding questions parliamentary inquiries. They both involve legal questions, and are not properly parliamentary questions to be decided by the Chair.

The Presiding Officer: The Senator from Missouri is certainly late with the point of order so far as the first two questions are concerned. With respect to the last question, the Chair will overrule the point of order and permit the Senator from Connecticut again to state his parliamentary inquiry.

Mr. Danaher: Mr. President, does a Senate resolution, if adopted, have greater effect than to reflect the views of the largest number of Senators agreeing thereto, who are present and voting for it?

The Presiding Officer: The Chair will state that under the universal practice a resolution of this kind is not binding on anyone. It is merely a statement of the opinion of the Senate.

Mr. Danaher: Mr. President, in response to the comment of the Senator from Montana, let me say that with very considerable diligence I made inquiry into the Senate precedents with reference to the status and effect of a Senate resolution of this character. I have taken the matter up with the parliamentarian of the Senate and with others in a position to give me the benefit of their advice and experience. I have been informed—and I think reliably—by the parliamentarian himself that he has made a search of

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8. 89 Cong. Rec. 8901, 8902, 78th Cong. 1st Sess.

9. Scott W. Lucas (Ill.).

the precedents at my request. I respectfully ask unanimous consent to have inserted in the Record at this point as a part of my remarks a definition of the effect of a Senate resolution, as prepared for me by the Senate parliamentarian.

MR. [CARL A.] HATCH [of New Mexico]: Mr. President, will the Senator yield?

MR. DANAHER: I yield.

MR. HATCH: Does not the Senator intend to read it, or have it read?

MR. DANAHER: Yes. I ask that the memorandum be read at the desk.

THE PRESIDING OFFICER: Without objection, the clerk will read the memorandum.

The legislative clerk read as follows:

> Under the uniform practice of this body, Senate (or simple) resolutions are used in dealing with nonlegislative matters exclusively within the jurisdiction of the Senate, such as expressing opinions or facts, creating and appointing committees of the body, calling on departments for information, reports, etc. They have no legal effect, their passage being attested only by the Secretary of the Senate, and require no action by the House of Representatives. Containing no legislative provisions, they are not presented to the President of the United States for his approval, as in the case of bills and joint resolutions.

Parliamentarian's Note: As in the case of concurrent resolutions, Congress has in recent years enacted legislation permitting either House by simple resolution to approve or disapprove certain proposed executive actions. See §7, infra. [See also *House Rules and Manual* §1013 (1981).]

Adoption of Rules

§ 6.2 A simple resolution is used to adopt the rules of the House for each Congress.

On Jan. 3, 1935,(10) the House considered and agreed to the following House resolution (H. Res. 17):

> *Resolved,* That the rules of the Seventy-third Congress be, and they are hereby, adopted as the rules of the Seventy-fourth Congress, including therein the following amendment, to wit:
>
> That the last sentence of the first paragraph of section 4 of rule XXVII be amended to read as follows:
>
> "When a majority of the total Membership of the House shall have signed the motion, it shall be entered on the Journal, printed with the signatures thereto in the Congressional Record, and referred to the Calendar of Motions to Discharge Committees."

Waiver of Rules

§ 6.3 The Committee on Rules may report and call up as privileged resolutions temporarily waiving any rule of the House, including statutory provisions enacted as an exercise in the House's rulemaking authority which would otherwise prohibit the consideration of a bill being made in order by the resolution.

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10. 79 CONG. REC. 13, 74th Cong. 1st Sess.

The following proceedings took place on Mar. 20, 1975:(11)

Mr. [Claude D.] Pepper [of Florida]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 337 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 337

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 2(l)(6) of rule XI and section 401 of Public Law 93-344 to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4485) to provide for greater homeownership opportunities for middle-income families and to encourage more efficient use of land and energy resources. . . .

Mr. [John B.] Anderson of Illinois: Mr. Speaker, I raise a point of order against House Resolution 337 on the grounds that the Budget Act by direct inference forbids any waiver of the section 401 ban on new backdoor spending in the House of Representatives.

Mr. Speaker, my point of order is grounded on two basic facts: First, there is no specific provision in section 401 for an emergency waiver of its provisions; and yet, in section 402, which generally prohibits consideration of bills authorizing new budget authority after May 15, there is specific provision for an "Emergency Waiver in the House" if the Rules Committee determines that emergency conditions require such a waiver. It is my contention that if the authors of section 401 had intended to permit a waiver of its provisions, they would have specifically written into law as they did with section 402. Section 402 makes a similar provision for waiving its provisions in the Senate.

Second, section 904 of the Budget Act, in subsections (b) and (c) states that any provision of title III or IV may be waived or suspended in the Senate by a majority vote of the Members voting, thus extending a waiver procedure in the Senate to section 401 as well as 402. But section 904 contains no similar waiver provision for the House of Representatives.

It should be clear from these two facts that the House was intentionally excluded from waiving the provisions of section 401 of the Budget Act.

Mr. Speaker, the point may be made that the Budget Act's provisions are part of the rules of the House, and, as such, are subject to change at any time under the constitutional right of the House to determine the rules of its proceedings. But I think a fine distinction should be drawn here. This resolution is presented for the purpose of making a bill in order for consideration, and is not before us for the purpose of amending or changing the Budget Act. Since section 401 of the Budget Act deals concurrently with the House and the Senate and their integrated procedures for prohibiting new backdoor spending, any attempt to alter this would have to be dealt with in a concurrent resolution at the very minimum, if not a joint resolution or amendment to the Budget Act. It is one thing for the House to amend its

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11. 121 Cong. Rec. 7676, 7677, 94th Cong. 1st Sess.

rules; it is quite another for it to attempt, by simple resolution, to waive a provision of law relating to the joint rules of procedures of both Houses. . . . It is my contention that the authors of the Budget Act never intended for side-door spending in the Rules Committee and for that reason specifically excluded any provision for emergency waivers in section 401 in the House. I therefore urge that my point of order be sustained.

Mr. [Richard] Bolling [of Missouri]: . . . Mr. Speaker, there are a variety of grounds on which it would be possible to address this point of order. It could be dismissed very quickly on the grounds that the rules of the House provide that it shall always be in order to call up for consideration a report from the Committee on Rules on a rule, joint rule or the order of business, and then it proceeds to give the very limited number of exceptions. The one that the gentleman from Illinois makes as his points of order, and all the different ones he makes as his points of order, are not included in those specific exceptions.

So, the rules of the House specifically make it clear that the Rules Committee is in order when it reports a rule dealing with the order of business, and it does not qualify that authority except in a very limited degree.

Furthermore, it is an established fact that the House can always change its rules. It is protected by so doing. . . .

Mr. [Chalmers P.] Wylie [of Ohio]: Does not the Budget Control Act, section 401(a) prohibit backdoor spending?

Mr. Bolling: It also is possible for that provision to be waived. What I tried to do in my discussion in opposition to the validity of the point of order made by the gentleman from Illinois was to point out the very broad basis on which such a matter could be waived, a constitutional basis and a specific provision of clause 4 of rule XI granting the Committee on Rules a very broad authority to report matters that relate to order of business. It is a well-known fact that the Committee on Rules often reports waivers of points of order, and this is, in effect, a waiver of a point of order.

The Speaker:(12) The Chair is ready to rule.

The gentleman from Illinois makes the point of order against the consideration of House Resolution 337 reported from the Committee on Rules, on the grounds that that Committee has no authority to report as privileged a resolution waiving the provisions of section 401 of the Congressional Budget Act of 1974. Section 401 prohibits the consideration in the House of any bill which provides new spending authority unless that bill also provides that such new spending authority is to be available only to the extent provided in appropriations acts.

The Chair would point out that while section 401 has the force and effect of law, section 904 of the Congressional Budget Act clearly recites that all of the provisions of title IV, including secton 401, were enacted as an exercise of the rulemaking power of the House, to be considered as part of the rules of the House, with full recognition of the constitutional right of each House to change such rules at any time to the same extent as in the

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12. Carl Albert (Okla.).

case of any other rule of the House. House Resolution 5, 94th Congress, adopted all these provisions of the Budget Act as part of the rules of the House for this Congress. . . .

The Chair, therefore, overrules the point of order.

Amending Rules

§ 6.4 The House agreed to a resolution amending the rules of the House to permit the Delegate from Alaska to serve on an additional committee.

On Aug. 2, 1949,(13) the House, by unanimous consent, considered and agreed to the following resolution (H. Res. 294):

> *Resolved,* That rule XII of the Standing Rules of the House of Representatives is hereby amended to read as follows:
>
> RULE XII
>
> DELEGATES AND RESIDENT COMMISSIONERS
>
> 1. The Delegate from Hawaii and the Resident Commissioner of the United States from Puerto Rico shall be elected to serve as additional members on the Committees on Agriculture, Armed Services, and Public Lands, and the Delegate from Alaska shall be elected to serve as an additional member on the Committees on Agriculture, Armed Services, Merchant Marine and Fisheries, and Public Lands; and they shall possess in such committees the same powers and privileges as in the House, and may make any motion except to reconsider.

Committee Investigations

§ 6.5 The Senate considered a resolution providing for the investigation by a Senate committee of charges made in the press concerning the bribery of candidates for public office.

On Mar. 8, 1960,(14) there was considered in the Senate the following resolution (S. Res. 285):

> *Resolved,* That the Committee on Rules and Administration, or any duly authorized subcommittee thereof, is authorized and directed under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdictions specified by rule XXV of the Standing Rules of the Senate, to examine, investigate, and make a complete study of the charges, with a view to determine the truth or falsity thereof, which have recently appeared in the public press that certain persons have sought, through corruptly offering various favors, privileges, and other inducements (including large sums of money), to induce certain individuals to lend their political support to one political party rather than to another, or to become candidates of one political party rather than of another, and that the offers made by such persons have in fact corruptly induced certain of such individuals to change their political affiliations or to lend their political support to one political party rather than to another.

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13. 95 CONG. REC. 10618, 81st Cong. 1st Sess.

14. 106 CONG. REC. 4899, 86th Cong. 2d Sess.

Sec. 2. The committee shall report its findings, together with its recommendations for such legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than January 31, 1961.

Sec. 3. For the purpose of this resolution, the committee, from the date on which this resolution is agreed to, to January 31, 1961, inclusive, is authorized (1) to make such expenditures as it deems advisable, and (2) to employ on a temporary basis technical, clerical, and other assistants and consultants.

§ 6.6 The House agreed to a resolution directing a committee to investigate whether a subpena issued by a court or grand jury purporting to command a Member to appear and testify invades the rights and privileges of the House.

On Nov. 10, 1941,(15) Mr. Hamilton Fish, of New York, rose to a question of personal privilege, and sent to the desk a subpena which had been served on him, asking that it be read by the Clerk. When the subpena had been read, Mr. Fish submitted, as a matter of privilege of the House, the issue of compliance with the subpena.

Mr. Fish: Mr. Speaker,(16) I have been summoned to appear before the District grand jury to give testimony next Wednesday morning. The subpena has just been read by the Clerk. Under the precedents of the House, I find that I am unable to comply with this summons without the consent of the House, the privilege of the House being involved. I therefore submit the matter for the consideration of this body.

Mr. John W. McCormack, of Massachusetts, addressed the House concerning the significance of the matter Mr. Fish had brought to the attention of the House, and following his remarks, included below, introduced, as a question of the privilege of the House, House Resolution 335, which the House then considered and agreed to:

Mr. McCormack: Mr. Speaker, the gentleman from New York raises a fundamental question, which is very important to the House to have correct information and advice upon before proceeding. The matter concerns the integrity of the House itself whether or not an individual Member can be summoned under the circumstances disclosed in the case of the gentleman from New York [Mr. Fish] and if he cannot, if he can waive his constitutional privileges as a Member.

This resolution does not pass upon the merits or the demerits of the grand jury proceedings. In offering the resolution I am about to offer, it is not a question of reflection on the grand jury or the Department of Justice or the judicial branch of the Government, but it

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15. 87 Cong. Rec. 8734, 77th Cong. 1st Sess.
16. Sam Rayburn (Tex.).

involves a question of the integrity of the House.

I offer the following resolution and ask for its immediate consideration.

The Clerk read as follows (H. Res. 335):

> Whereas Hamilton Fish, a Member of this House from the State of New York, has been summoned to appear as a witness before the grand jury of a United States Court for the District of Columbia to testify; and
>
> Whereas the service of such a process upon a Member of this House during his attendance while the Congress is in session might deprive the district which he represents of this voice and vote; and
>
> Whereas Article I, section 6, of the Constitution of the United States provides: "They (the Senators and Representatives) shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendence at the session of their respective Houses, and in going to and returning from the same . . . and for any speech or debate in either House, they (the Senators and Representatives) shall not be questioned in any other place"; and
>
> Whereas it appears by reason of the action taken by the said grand jury that the rights and privileges of the House of Representatives may be infringed:
>
> *Resolved,* That the Committee on the Judiciary of the House of Representatives is authorized and directed to investigate and consider whether the service of a subpena or any other process by a court or a grand jury purporting to command a Member of this House to appear and testify invades the rights and privileges of the House of Representatives. The committee shall report at any time on the matters herein committed to it, and that until the committee shall report Representative Hamilton Fish shall refrain from responding to the summons served upon him.(17)

§ 6.7 The House considered as a question of privilege, a resolution referring to the Committee on the Judiciary the question of whether subpenas served upon certain Members, former Members, and House employees in a civil suit invaded the rights and privileges of the House.

On Mar. 26, 1953,(18) the House considered and agreed to the following resolution (H. Res. 190):

> Whereas Harold H. Velde, of Illinois; Donald L. Jackson, of California; Francis E. Walter, of Pennsylvania; Morgan M. Moulder, of Missouri; Clyde Doyle, of California; and James B. Frazier, Jr., of Tennessee, all Representatives in the Congress of the United States; and Louis J. Russell and William Wheeler, employees of the House of Representatives, have been by subpenas commanded to appear on Monday and Tuesday, March 30 and 31, 1953, in the city of Los Angeles, Calif., and to testify and give their depositions in the case of *Michael Wilson et al.* v. *Loew's Incorporated et al.*, an action pending in the Superior

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17. On Nov. 17, 1941, the Committee on the Judiciary, in relation to the above matter, filed a privileged report (H. Rept. 1415) which was referred to the House Calendar. 87 Cong. Rec. 8933, 77th Cong. 1st Sess.
18. 99 Cong. Rec. 2356–58, 83d Cong. 1st Sess.

Court of the State of California in and for the County of Los Angeles; and

Whereas the complaint in the aforesaid case of *Michael Wilson et al.* v. *Loew's Incorporated et al.*, lists among the parties defendant therein John S. Wood, Francis E. Walter, Morgan M. Moulder, Clyde Doyle, James B. Frazier, Harold E. Velde, Barnard W. Kearney, Donald L. Jackson, Charles E. Potter, Louis J. Russell, and William Wheeler; and . . .

Whereas part V of said complaint contains an allegation that "on and prior to March 1951 and continuously thereafter defendants herein and each of them conspired together and agreed with each other to blacklist and to refuse employment to and exclude from employment in the motion-picture industry all employees and persons seeking employment in the motion-picture industry who had been or thereafter were subpenaed as witnesses before the Committee on Un-American Activities of the House of Representatives . . ."; and

Whereas article I, section 6, of the Constitution of the United States provides: "They (the Senators and Representatives) shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; . . . and for any speech or debate in either House, they (the Senators and Representatives) shall not be questioned in any other place"; and

Whereas the service of such process upon Members of this House during their attendance while the Congress is in session might deprive the district which each respectively represents of his voice and vote; and

Whereas the service of such subpenas and summons upon Members of the House of Representatives who are members of the duly constituted committee of the House of Representatives, and the service of such subpenas and summons upon employees of the House of Representatives serving on the staff of a duly constituted committee of the House of Representatives, will hamper and delay if not completely obstruct the work of such committee, its members, and its staff employees in their official capacities; and

Whereas it appears by reason of allegations made in the compliant in the said case of *Michael Wilson, et al.* v. *Loew's Incorporated, et al.*, and by reason of the said processes hereinbefore mentioned the rights and privileges of the House of Representatives may be infringed:

Resolved, That the Committee on the Judiciary, acting as a whole or by subcommittee, is hereby authorized and directed to investigate and consider whether the service of the processes aforementioned purporting to command Members, former Members, and employees of this House to appear and testify invades the rights and privileges of the House of Representatives; and whether in the compliant of the aforementioned case of *Michael Wilson, et al.* v. *Loew's Incorporated et al.*, the allegations that Members, former Members, and employees of the House of Representatives acting in their official capacities as members of a committee of the said House conspired against the plaintiffs in such action to the detriment of such plaintiffs, and any and all other allegations in the said complaint reflecting upon Members, former Members, and employees of this House and their actions in their representative and official capacities, invade the rights and privileges of the House of Representatives. The committee may report at any time on the matters herein committed to it, and until the committee shall report and the House shall grant its consent in the premises the aforementioned Members, former Members, and employees shall refrain from reponding to the subpenas or summons served upon them. . . .

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, I think probably a few words in explanation of the resolution and the reason for its being here are in order at this time, in spite of the fact that the resolution for the most part speaks for itself.

By way of explanation, as most of us know, certain members of the House Committee on Un-American Activities and employees of that committee are presently in the State of California conducting certain investigations as a part of their operation as a standing committee of the House of Representatives. They are there in their official capacity as members of the committee and employees of the committee, and as Members of the House of Representatives and employees of the House of Representatives. They are there, furthermore, by direction of the House of Representatives, and they are there on official business as evidenced by the action taken in the House yesterday excusing them from attendance here by reason of their performance of official duties in California at this time.

The suit that has been filed in the State courts of California arises out of certain alleged conduct, or activities, or operations, of the House Committee on Un-American Activities of the 82d Congress. Enough has been included in the resolution, I think, to indicate the nature of the suit which is, as I understand, one for damages asserted against certain corporations and private individuals, and likewise against Members of the House of Representatives and employees of the House of Representatives, admittedly by the provisions of the complaint itself involving them in the conduct of their official duty.

If you noted the reading of the resolution it is clear that the privileges of the House are infringed by this action. The purpose of this resolution is to avoid the immediate effect of the action sought to be taken in California and at the same time to direct the Judiciary Committee of the House of Representatives to make a thorough study and investigation of the whole matter and report to the House of Representatives with respect to it and other matters of like character that may arise in the future.

I have spoken of the fact that the complaint recognizes the official character of the conduct and actions of Members of the House of Representatives and the employees of the committee. The Constitution provides that, as recited in the resolution:

> They—

Referring to the Senators and Representatives—

> shall in all cases except treason, felony, and breach of the peace be

> privileged from arrest during their attendance on the session of their respective Houses, and in going to and returning from the same.

It is further provided:

> That for any speech or debate in either House they—

Referring to the Senators and Representatives—

> shall not be questioned in any other place.

Through the years that language has been construed to mean more than the speech or statement made here within the four walls of the House of Representatives; it has been construed to include the conduct of Members and their statements in connection with their activities as Members of the House of Representatives. As a result, it seems clear to me that under the provisions of the Constitution itself the adoption of the resolution which was presented is certainly in order.

Let us assume that any regular standing committee of the House of Representatives should conduct a hearing and any one of us were there as a Member of the House in his official capacity. Let us further assume that this Member saw fit to elicit certain information from a witness by questions and as a result of that questioning the witness, employed by someone, subsequently lost his job. Is the Member of the House of Representatives to be held accountable and haled into court on a suit for damages for his participation in the operations of that committee as a member of the committee and as Members of the House of Representatives? To me it seems clear that no such action can be taken under the Constitution.

Furthermore, this committee that is presently in California is there on official business for the House of Representatives and as a part of the House of Representatives of the Congress of the United States. Everyone recognizes the investigatory process as a part of the legislative process. So, under the rules creating the committee and under long established precedents, the members of that committee and their employees are there operating and acting as an arm of the House of Representatives.

To me it seems very clear that if a civil suit for damages can be filed and summonses served on Members of the House of Representatives who are there present, followed by subpenas requiring them to attend and give testimony as witnesses on deposition, as is pointed out in this resolution, then the work of the committee could be completely obstructed, since conceivably the questioning of the Members of the House of Representatives who are presently there would be carried on interminably, and the work of the committee stopped.

Consideration of Concurrent Resolutions

§ 6.8 The consideration of a House concurrent resolution which is not otherwise privileged may be provided for by a resolution from the Committee on Rules.

On Oct. 5, 1962,(19) the House considered the following resolu-

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19. 108 Cong. Rec. 22618, 87th Cong. 2d Sess.

tion (H. Res. 827) from the Committee on Rules providing for the consideration of House Concurrent Resolution 570:

SENSE OF CONGRESS WITH RESPECT TO BERLIN

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 827 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

> *Resolved,* That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the concurrent resolution (H. Con. Res. 570) expressing the sense of the Congress with respect to the situation in Berlin. After general debate, which shall be confined to the concurrent resolution, and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, the concurrent resolution shall be considered as having been read for amendment. No amendment shall be in order to said concurrent resolution except amendments offered by the direction of the Committee on Foreign Affairs and such amendments shall not be subject to amendment. At the conclusion of the consideration of the concurrent resolution for amendment, the Committee shall rise and report the concurrent resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the concurrent resolution and amendments thereto, to final passage without intervening motion except one motion to recommit with or without instructions.

Rescinding Resolution Previously Adopted

§ 6.9 By resolution, the House rescinded a previously adopted resolution whereby a bill had been referred to the Court of Claims for report.

On Apr. 30, 1957,[20] the House considered by unanimous consent and passed the following resolution (H. Res. 241):

> *Resolved,* That the adoption by the House of Representatives of House Resolution 174, 85th Congress, is hereby rescinded. The United States Court of Claims is hereby directed to return to the House of Representatives the bill (H.R. 2648) entitled "A bill for the relief of the MacArthur Mining Co., Inc., in receivership," together with all accompanying papers, referred to said court by said House Resolution 174.

Requesting Conference

§ 6.10 The House considered a resolution taking a House joint resolution with Senate amendments thereto from the Speaker's table, disagreeing to the Senate amendments, and requesting a conference.

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[20] 103 CONG. REC. 6159, 85th Cong. 1st Sess.

On Oct. 31, 1939,(21) the House considered the following resolution (H. Res. 320) reported from the Committee on Rules:

> *Resolved,* That immediately upon the adoption of this resolution, the joint resolution (H.J. Res. 306), the Neutrality Act of 1939, with Senate amendments thereto, be, and the same is hereby, taken from the Speaker's table to the end that the amendments of the Senate be, and the same are hereby, disagreed to and a conference is requested with the Senate on the disagreeing votes of the two Houses.

Providing a Standing Order of Business

§ 6.11 The Senate agreed to a resolution providing that the Presiding Officer shall temporarily suspend business at 12 noon, on days when the Senate has remained in session from the preceding calendar day, to allow the Chaplain to give the customary daily prayer.

On Feb. 29, 1960(22) the Senate considered and agreed to the following resolution (S. Res. 283):

> *Resolved,* That during the sessions of the Senate when that body is in continuous session, the Presiding Officer shall temporarily suspend the business of the Senate at noon each day for the purpose of having the customary daily prayer by the Chaplain of the Senate.

Distribution of Senate Film Report

§ 6.12 The Senate agreed to a resolution providing for the designation and distribution of a documentary film prepared by a Senate committee as a "Senate Film Report."

On Oct. 2, 1963,(1) the Senate agreed to the following resolution (S. Res. 208):

> *Resolved,* That the film report on water pollution, entitled "Troubled Waters," prepared by the Committee on Public Works, shall be designated as Senate Film Report numbered 1, Eighty-eighth Congress, and that there be printed seven additional copies of such film, five for the use of that committee, and two for the Library of Congress. The Secretary of the Senate is authorized and directed to pay, from the contingent funds of the Senate, the actual cost of reproduction of these copies of the film: *Provided,* That copies of said film may be made available to nongovernmental agencies or individuals at the cost of reproduction.

Response to Subpena

§ 6.13 By resolution the House may authorize certain Members to respond to a subpena issued by a federal district court in a contempt case.

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21. 85 Cong. Rec. 1092, 76th Cong. 2d Sess.

22. 106 Cong. Rec. 3709, 86th Cong. 2d Sess.

1. 109 Cong. Rec. 18541, 88th Cong. 1st Sess.

On Feb. 23, 1948,(2) the House considered and agreed to the following privileged resolution (H. Res. 477):

> Whereas Representatives John S. Wood, J. Hardin Peterson, John R. Murdock, and Gerald W. Landis, Members of this House, have been subpenaed to appear as witnesses before the District Court of the United States for the District of Columbia to testify at 10 a.m. on the 24th day of February 1948, in the case of the *United States* v. *Richard Morford*, Criminal No. 366-47; and
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> Whereas by the privileges of the House no Member is authorized to appear and testify but by the order of the House: Therefore be it
>
> *Resolved*, That Representatives John S. Wood, J. Hardin Peterson, John R. Murdock, and Gerald W. Landis are authorized to appear in response to the subpenas of the District Court of the United States for the District of Columbia in the case of the *United States* v. *Richard Morford* at such time as when the House is not sitting in session; and be it further
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> *Resolved*, That a copy of these resolutions be transmitted to the said court as a respectful answer to the subpenas of the said court.

§ 6.14 The House may by resolution authorize certain of its officers to appear before a grand jury in response to a subpena duces tecum and permit the court to take copies of certain papers.

On May 25, 1953,(3) the House considered and agreed to privileged resolutions (H. Res. 245 and H. Res. 246) permitting its Clerk and its Sergeant at Arms to appear before a federal grand jury. The resolution pertaining to the Clerk was as follows:

> Whereas in re investigation of possible violation of title 18, United States Code, section 1001, a subpena duces tecum was issued by the United States District Court for the District of Columbia and addressed to Lyle Snader, Clerk of the House of Representatives, directing him to appear before the grand jury of said court on Thursday, the 28th day of May 1953, at 9:15 o'clock antemeridian to testify and to bring with him certain forms, papers, and records in the possession and under the control of the House of Representatives: Therefore be it
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> *Resolved*, That by the privileges of this House no evidence of a documentary character under the control and in the possession of the House of Representatives can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by its permission; be it further
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> *Resolved*, That when it appears by the order of the court or of the judge thereof or of any legal officer charged

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(2) 94 Cong. Rec. 1557, 80th Cong. 2d Sess.

(3) 99 Cong. Rec. 5523, 5524, 83d Cong. 1st Sess.

The resolution (H. Res. 246) allowing the Sergeant at Arms to respond was identical in terms to that for the Clerk.

with the administration of the orders of such court or judge, that documentary evidence in the possession and under the control of the House is needful for use in any court of justice or before any judge or such legal officer, for the promotion of justice, this House will take such order thereon as will promote the ends of justice consistently with the privileges and rights of this House; be it further

Resolved, That Lyle O. Snader, Clerk of the House, be authorized to appear at the place and before the grand jury of the court named in the subpena duces tecum before-mentioned, but shall not take with him any papers, documents, or records on file in his office or under his control or in his possession as Clerk of the House; be it further

Resolved, That when said court determines upon the materiality and the relevancy of the papers, documents, and records called for in the subpena duces tecum, then the said court, through any of its officers or agents, have full permission to attend with all proper parties to the proceedings and then always at any place under the orders and control of this House and take copies of any papers, documents, or records and the Clerk is authorized to supply certified copies of such papers, documents, or records in possession or control of said Clerk that the court has found to be material and relevant, so as, however, the possession of said papers, documents, and records by the said Clerk shall not be disturbed, or the same shall not be removed from their place of file or custody under said Clerk; and be it further

Resolved, That a copy of these resolutions be transmitted to the said court as a respectful answer to the subpena duces tecum aforementioned.

§ 6.15 The House agreed to a resolution authorizing the Committee on the Judiciary to file appearances and provide for the defense of certain Members, former Members, and House employees in a civil action.

On Aug. 1, 1953,[4] the House considered and agreed to the following privileged resolution (H. Res. 386):

Whereas Harold H. Velde, of Illinois, Donald L. Jackson, of California, Morgan M. Moulder, of Missouri, Clyde Doyle, of California, and James B. Frazier, Jr., of Tennessee, all Representatives in the Congress of the United States; and Louis J. Russell, and William Wheeler, employees of the House of Representatives, were by subpenas commanded to appear on Monday and Tuesday, March 30 and 31, 1953 in the city of Los Angeles, Calif., and to testify and give their depositions in the case of *Michael Wilson, et al.* v. *Loew's, Incorporated, et al.,* an action pending in the Superior Court of California in and for the County of Los Angeles; and

Whereas the complaint in the aforesaid case of *Michael Wilson, et al.* v. *Loew's Incorporated, et al.* lists among the parties defendant therein Harold H. Velde, Bernard W. Kearney, Donald

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[4] 99 Cong. Rec. 10949, 10950, 83d Cong. 1st Sess.

L. Jackson, Francis E. Walter, Morgan M. Moulder, Clyde Doyle, and James B. Frazier, members of the Committee on Un-American Activities; John S. Wood, and Charles E. Potter, former members of the Committee on Un-American Activities; and Louis J. Russell, and William Wheeler, employees of the Committee on Un-American Activities; and

Whereas summonses in the aforesaid case of *Michael Wilson et al.* v. *Loew's Incorporated, et al.* were served on Harold H. Velde, Donald L. Jackson, Morgan M. Moulder, Clyde Doyle, James B. Frazier, Jr., Louis J. Russell and William Wheeler while they were in the city of Los Angeles, Calif., actively engaged in the performance of their duties and obligations as members and employees of the Committee on Un-American Activities; and

Whereas Harold H. Velde, Donald L. Jackson, Morgan M. Moulder, Clyde Doyle, James B. Frazier, Jr., Louis J. Russell, and William Wheeler appeared specially in the case of Michael Wilson, et al. versus Loew's Incorporated, et al., for the purpose of moving to set aside the service of summonses and to quash the subpenas with which they had been served; and

Whereas on July 20, 1953, the Superior Court of the State of California in and for the County of Los Angeles ruled that the aforesaid summonses served upon Harold H. Velde, Morgan M. Moulder, James B. Frazier, Jr., and Louis J. Russell should be set aside for the reasons that it was the public policy of the State of California "that nonresident members and attachés of a congressional committee who enter the territorial jurisdiction of its courts for the controlling purpose of conducting legislative hearings pursuant to law should be privileged from the service of process in civil litigation"; and

Whereas on July 20, 1953, the Superior Court of the State of California in and for the County of Los Angeles also ruled that the subpenas served upon Harold H. Velde, Morgan M. Moulder, James B. Frazier, Jr., and Louis J. Russell should be recalled and quashed for the reason set forth above, and for the further reasons that such service was premature and that such service was invalid under article I, section 6, of the Constitution of the United States which provides: "They (the Senators and Representatives) shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; . . . and for any speech or debate in either House, they shall not be questioned in any other place"; and

Whereas on July 20, 1953, the Superior Court of the State of California in and for the County of Los Angeles further ruled that the subpenas served on Clyde Doyle and Donald Jackson should be recalled and quashed because such service was invalid under the aforementioned article I, section 6, of the Constitution of the United States; and

Whereas the case of *Michael Wilson, et al.* v. *Loew's Incorporated, et al.* in which the aforementioned Members, former Members, and employees of the House of Representatives are named parties defendant is still pending; and

Whereas the summonses with respect to Donald L. Jackson, Clyde Doyle, and William Wheeler in the case of *Michael Wilson, et al.* v. *Loew's Incorporated, et al.,* have not been quashed:

Resolved, That the House of Representatives hereby approves of the special appearances of Harold H. Velde, Donald L. Jackson, Morgan M. Moulder, Clyde Doyle, James B. Frazier, Jr., Louis J. Russell, and William Wheeler theretofore entered in the case of *Michael Wilson, et al.* v. *Loew's Incorporated, et al.,* and be it further

Resolved, That the Committee on the Judiciary, acting as a whole or by subcommittee, is hereby authorized to direct the filing in the case of *Michael Wilson, et al.* v. *Loew's Incorporated, et al.* of such special or general appearances on behalf of any of the Members, former Members, or employees of the House of Representatives named as defendants therein, and to direct such other or further action with respect to the aforementioned defendants in such manner as will, in the judgment of the Committee on the Judiciary, be consistent with the rights and privileges of the House of Representatives; and be it further

Resolved, That the Committee on the Judiciary is also authorized and directed to arrange for the defense of the Members, former Members, and employees of the Committee on Un-American Activities in any suit hereafter brought against such Members, former Members, and employees, or any one or more of them growing out of the actions of such Members, former Members, and employees while performing such duties and obligations imposed upon them by the laws of the Congress and the rules and resolutions of the House of Representatives. The Committee on the Judiciary is authorized to incur all expenses necessary for the purposes hereof, including but not limited to expenses of travel and subsistence, employment of counsel and other persons to assist the committee or subcommittee, and if deemed advisable by the committee or subcommittee, to employ counsel to represent any and all of the Members, former Members, and employees of the Committee on Un-American Activities who may be named as parties defendant in any such action or actions; and such expenses shall be paid from the contingent fund of the House of Representatives on vouchers authorized by the Committee on the Judiciary and signed by the chairman thereof and approved by the Committee on House Administration.

§ 6.16 The House may by resolution authorize a Member to respond to a subpena requiring him to appear before a state court.

On July 9, 1954,(5) the House considered the following privileged resolution (H. Res. 640):

Whereas James A. Haley, a Representative in the Congress of the United States, has been served with a subpena to appear as a witness before the circuit court of the State of Florida for Sarasota County to testify at 10 o'clock a.m., on the 3d day of August 1954, in the case of the *County of Sarasota, Florida* v. *State of Florida and the Taxpayers, Etc.,* and

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5. 100 Cong. Rec. 10904, 83d Cong. 2d Sess.

Whereas by the privileges of the House of Representatives no Member is authorized to appear and testify but by the order of the House: Therefore be it

Resolved, That Representative James A. Haley is authorized to appear in response to the subpena of the Circuit Court of the State of Florida for Sarasota County on Tuesday, August 3, 1954, in the case of the *County of Sarasota, Florida,* v. *State of Florida and the Taxpayers, Etc.;* and be it further

Resolved, That a copy of these resolutions be transmitted to the said court as a respectful answer to the subpena of the said court.

§ 6.17 The House considered a resolution relating to a subpena duces tecum served on the House dispersing clerk by a U.S. District Court, authorizing him to appear in the court and permitting the court through its agents to take copies of papers in possession of the clerk.

On Feb. 7, 1955,(6) the House considered and agreed to the following privileged resolution (H. Res. 132):

Whereas in the case of *Bettie M. Bacon* v. *The United States* (No. 2384-53, civil docket) pending in the District Court of the United States for the District of Columbia, a subpena duces tecum was issued by the said court and addressed to Harry M. Livingston, disbursing clerk of the House of Representatives, directing him to appear as a witness before the said court on the 8th day of February 1955, at 1:30 post meridian and to bring with him certain and sundry papers in the possession and under the control of the House of Representatives: Therefore be it

Resolved, That by the privileges of this House no evidence of a documentary character under the control and in the possession of the House of Representatives can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by its permission; be it further

Resolved, That when it appears by the order of the court or of the judge thereof, or of any legal officer charged with the administration of the orders of such court of judge, that documentary evidence in the possession and under the control of the House is needful for use in any court of justice, or before any judge or such legal officer, for the promotion of justice, this House will take such order thereon as will promote the ends of justice consistently with the privileges and rights of this House; be it further

Resolved, That Harry M. Livingston, disbursing clerk of the House, be authorized to appear at the place and before the court named in the subpena duces tecum before-mentioned, but shall not take with him any papers or documents on file in his office or under his control or in possession of the Clerk of the House; be it further

Resolved, That when said court determines upon the materiality and the relevancy of the papers and documents called for in the subpena duces tecum, then the said court, through any of its

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6. 101 Cong. Rec. 1215, 84th Cong. 1st Sess.

officers or agents, have full permission to attend with all proper parties to the proceeding and then always at any place under the orders and control of this House and take copies of any documents or papers and the Clerk is authorized to supply certified copies of such documents and papers in possession or control of said Clerk that the court has found to be material and relevant, except minutes and transcripts of executive sessions, and any evidence of witnesses in respect thereto which the court or other proper officer thereof shall desire, so as, however, the possession of said documents and papers by the said Clerk shall not be disturbed, or the same shall not be removed from their place of file or custody under said Clerk; and be it further

Resolved, That copy of these resolutions be transmitted to the said court as a respectful answer to the subpena aforementioned.

Expressing Sympathy

§ 6.18 The Senate agreed to a resolution wishing a speedy recovery to the wife of a Colombian official who was confined to a hospital while visiting the United States with her husband.

On June 25, 1962,(7) the Senate considered and agreed to the following resolution (S. Res. 355):

Whereas the newly elected President of Colombia, the Honorable Guillermo Valencia, is now a visitor to the United States; and

Whereas Mr. Valencia has served with distinction for 20 consecutive years as a Senator in his country, from which position His Excellency was elected President, both of which facts Members of the United States Senate have taken due and appreciative notice; and

Whereas the gracious wife and companion of President-elect Valencia is now hospitalized in the United States: Be it

Resolved, That the Senate sends to Mrs. Valencia greetings and welcome, and best wishes for early recovery; and be it further

Resolved, That a bouquet of American roses be purchased from the contingent fund of the Senate and be taken by special courier to Mrs. Valencia, as a token of the Senate's esteem for her, for her distinguished husband, and for the people of Colombia.

§ 7. Resolutions of Approval or Disapproval of Executive Plans; the "Legislative Veto"

Congress has, from time to time, provided procedures whereby it has by statute reserved to itself the right to disapprove certain executive actions. These procedures envision some form of congressional action on a simple or concurrent resolution of disapproval or approval.(8) This prac-

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7. 108 Cong. Rec. 11653, 87th Cong. 2d Sess.

8. Resolutions of approval or disapproval fall into three categories:

tice has come to be known as the "legislative (or congressional) veto," and has been used extensively as a congressional device to maintain control over executive plans and actions authorized by statute. This procedure has been employed only when it has been authorized by a specific statute and for the specific purpose stated in such statute, there being no inherent power under the Constitution by which the Congress may nullify a duly authorized function of the executive branch. The procedure prescribed by a given statute in this respect varies according to the extent of control the Congress wished to exercise.

The constitutionality of these legislative veto provisions has been questioned since their earliest use.[9] The Supreme Court has in fact invalidated the one-House legislative veto mechanism contained in section 244(d)(2) of the Immigration and Nationality Act in *Immigration and Naturalization Service* v *Chadha et al.* decided June 23, 1983.[10] The opinion of the Court is to the effect that the constitutional requirement of bicameral consideration and presentment to the President is an absolute requirement for all exercises of legislative power.

The precedents contained in this section must be considered in light of the Court's ruling. They are retained because of their historic significance and because they may yet have precedential value in other contexts and in the event future legislative mechanisms are devised to overcome the constitutional infirmities recognized in *Chadha*.

Under some statutes enacted prior to the *Chadha* decision, the branch or agency of the government affected must submit certain of its decisions or plans to the Houses of Congress or directly to the appropriate congressional committees for a stated period,

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those in which the resolution must be acted upon by either or both Houses and which are privileged for consideration; those in which the resolution must be acted upon by either or both Houses but which are not privileged; and those in which the resolution need only be acted upon by designated committees of either or both Houses. See *House Rules and Manual* § 1013 (1981). All three types are in a sense "nonlegislative" in that none are presented to the President for his approval or disapproval pursuant to Art. I, § 7 of the Constitution.

[9] See President Carter's message on the subject of legislative vetoes, June 21, 1978, H. Doc. 95-357.

[10] 462 U.S. ——.

and such decisions or plans will not go into effect if the Congress passes a concurrent resolution stating in substance that it does not favor the proposed action.(11)

Such provisions are to be distinguished from those statutes under which Congress is entitled to receive periodic reports from an agency on its plans or programs, but does not have direct authority to disapprove of them.(12) However, the congressional committee receiving reports under such a statute may exercise an informal negotiating procedure with the agency involved in order to bring its decisions into conformity with the views of the committee. The Internal Revenue Code, for example, provides that whenever the Internal Revenue Service determines that a taxpayer is entitled to a tax refund or credit in excess of $100,000 it shall not award the money to the taxpayer until 30 days after it has submitted a report of its decision to the Joint Committee on Internal Revenue Taxation.(13)

The staff of the joint committee then reviews each report it receives from the Internal Revenue Service to decide whether or not it agrees with the service's determination. Frequently a tax refund or credit case will not become final until the joint committee and the service have through consultation agreed on the proper determination.

In addition to expressing its disapproval by resolution the Congress may choose to amend the law under which the decision or plan was submitted, or by statute suspend the action of the reporting agency. For example, during the 83d Congress the Supreme Court drafted and submitted to the Congress under a mandatory 90-day waiting period new rules of evidence for federal courts and amendments to the federal rules of civil and criminal procedure.

Under other statutes, the agency involved must come into

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11. For example, the Atomic Energy Act of 1954 (42 USC § 2074) provides that the Atomic Energy Commission must submit to the Joint Committee on Atomic Energy, for a period of 60 days before becoming effective, its determination as to the distribution of certain "special nuclear material". The proposals do not become effective if the Congress passes a concurrent resolution expressing its disapproval thereof.

12. See 18 USC § 3771 and 28 USC § 2072. The Supreme Court approved, by way of dictum, the validity of the waiting period requirement regarding the adoption of new court rules in *Sibbach* v *Wilson & Co.,* 312 U.S. 1, 15 (1941).

13. 26 USC § 6405.

agreement with the appropriate congressional committees regarding the final terms of such plan. Thus, a 1949 statute authorizing the establishment of a joint long-range proving ground for guided missiles contained the following language:

> . . . Prior to the acquisition under the authority of this section of any lands or rights or other interests pertaining thereto, the Secretary of the Air Force shall come into agreement with the Armed Services Committees of the Senate and the House of Representatives with respect to the acquisition of such lands, rights, or other interests.(14)

The "come-into-agreement" clause was used during and after World War II, but in recent years it has fallen into disuse because of strong Presidential protest. For example, in 1954 President Eisenhower vetoed a bill (H.R. 7512, 83d Cong.) authorizing the transfer of federally owned land within Camp Blanding Military Reservation, Florida, to the State of Florida after the Secretary of the Army had come into agreement with the Committees on Armed Services of the Senate and House of Representatives regarding the terms of such transfer. In his veto message the President said:

> The purpose of this clause is to vest in the Committees of Armed Services of the Senate and House of Representatives power to approve or disapprove any agreement which the Secretary of the Army proposes to make with the State of Florida pursuant to section 2(4). The practical effect would be to place the power to make such agreement jointly in the Secretary of the Army and the members of the Committees on Armed Services. In so doing, the bill would violate the fundamental constitutional principle of separation of powers prescribed in articles I and II of the Constitution which place the legislative power in the Congress and the executive power in the executive branch.
>
> The making of such a contract or agreement on behalf of the United States is a purely executive or administrative function, like the negotiation and execution of Government contracts generally. Thus, while Congress may enact legislation governing the making of Government contracts, it may not delegate to its Members or committees the power to make such contracts, either directly or by giving to them a power to approve or disapprove a contract which an executive officer proposes to make. Moreover such a procedure destroys the clear lines of responsibility for results which the Constitution provides.(15)

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14. Pub. L. No. 81-60, § 2, 63 Stat. 66.

15. H. Doc. No. 403, 83d Cong. 2d Sess. (May 26, 1954). See also the memorandum of Mr. J. V. Rankin of the Department of Justice expressing disapproval of a come-into-agreement clause in proposed amendments to the Public Building Act of 1949. 100 CONG. REC. 4878, 4879, 83d Cong. 2d Sess., Apr. 8, 1954.

Another procedural device found in agency authorization statutes is the clause providing that the agency charged with general executive authorization under a statute must consult the committees of both Houses that have jurisdiction over the subject matter of the statute before taking certain of the specific actions authorized under it. For example, the statute pertaining to the disposition of naval petroleum reserves declares that:

> The Committee on Armed Services of the Senate and the House of Representatives must be consulted and the President's approval must be obtained before any condemnation proceedings may be started under this chapter. . . .(16)

Still other statutes provide that an affirmative resolution of approval must be adopted by the congressional committees having jurisdiction of the subject matter before a plan drafted under the provisions of such statute by an executive agency shall go into effect. This affirmative approval procedure has usually been tied to the appropriation process. Thus, a statute will read that "no appropriation shall be made" until the particular projects authorized under it have been drafted by an agency concerned, submitted to the appropriate congressional committees, and approved by

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President Eisenhower made even stronger objection in his budget message of 1960 to another come-into-agreement statute: "In the budget message for 1959, and again for 1960, I recommended immediate repeal of section 601 of the Act of September 28, 1951 (65 Stat. 365). This section prevents the military departments and the Office of Civil and Defense Mobilization from carrying out certain transactions involving real property unless they come into agreement with the Committees on Armed Services of the Senate and the House of Representatives. As I have stated previously, the Attorney General has advised me that this section violates fundamental constitutional principles. Accordingly, if it is not repealed by the Congress at its present session, I shall have no alternative thereafter but to direct the Secretary of Defense to disregard the section unless a court of competent jurisdiction determines otherwise." Budget Message of the President for fiscal year 1961. H. Doc. No. 255, 86th Cong. 2d Sess., and 106 Cong. Rec. 674, 86th Cong. 2d Sess., Jan. 18, 1960. That same year the Congress amended the statute that the President found objectionable by changing the come-into-agreement clause to one permitting a committee resolution of disapproval of military real estate transactions. Act of June 8, 1960, Pub. L. No. 86-500, title V, § 511(1), 74 Stat. 186; 10 USC § 2662.

16. 10 USC § 7431.

them by means of committee resolution.(17)

The legislative veto came into use in the modern practice of the Congress with the passage of the Reorganization Act of 1939.(18) Under the act the President is authorized to draft plans for the reorganization of the executive branch. Such plans will go into effect upon their completion and 60 days after the President has submitted them to the Congress. However, if during that 60-day period(19) ". . . either House passes a resolution stating in substance that the House does not favor the reorganization plan",(20) the plan shall not go into effect. The act also sets forth the procedure by which such resolutions shall be considered in the House and Senate as exceptions to the regular rules of procedure.(21)

The use of the resolution of disapproval has not been limited to reorganization plans of the President. It is found in other statutes as well, as illustrated by the following examples.

The Immigration and Nationality Act of 1952 provides that when the Attorney General determines that certain classes of aliens are to be deported he may suspend the deportation after reviewing

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17. See § 7 of the Public Building Act of 1959 (40 USC § 606), and § 2 of the Watershed Protection and Flood Control Act of 1954, as amended (16 USC § 1002). The Public Building Act of 1954 provided that if a project approved by committee resolution receives no appropriation within a year the committee may rescind their approval at any time thereafter before an appropriation has been made. See *House Rules and Manual* § 1013 (1981) for compilation of "Legislative Veto" provisions contained in recent public laws.

18. Apr. 3, 1939, Ch. 36, 53 Stat. 561; 5 USC §§ 901-913.

19. The 60-day period must be continuous during a session of the Congress. It is broken only by an adjournment of the Congress *sine die,* and it does not include adjournments of more than three days within a session of Congress. 5 USC § 906(b).

20. 5 USC § 906(a). The act originally provided that disapproval must be expressed by concurrent resolution (53 Stat. 562, 563). However, the requirement was changed to a simple resolution by the 1949 amendments (June 20, 1949, Ch. 226, § 6, 63 Stat. 205).

Under provisions contained in a reorganization plan, any provision thereof may be effective at a time later than the date on which the plan otherwise is effective or, if both Houses have defeated a resolution of disapproval, may be effective at a time earlier than the expiration of the 60-day period mentioned above. 5 USC § 906(c).

21. 5 USC §§ 908-913.

the petitions filed by the individuals affected. Such suspensions, however, will not become final until the Attorney General has reported his determination to the Congress and neither the Senate nor the House of Representatives has passed a simple resolution, before the end of the session following the session in which the report is received, disapproving such determination. The law further provides that in cases involving certain classes of aliens suspension of deportation may be finalized before the end of the following session of Congress by the adoption of a concurrent resolution approving the Attorney General's findings.(1)

The resolution of disapproval may take the form of a committee resolution. For example, the Small Projects Reclamation Act of 1956(2) provides that no appropriation shall be made for participation in certain projects under the act prior to 60 days after the Secretary of the Interior has submitted his findings and approval for such projects to the Congress, ". . . and then only if, within said sixty days, neither the House nor the Senate Interior and Insular Affairs Committee disapproves the project proposal by committee resolution."(3)

Some statutes have provided that the entire authority granted therein may be terminated by a concurrent resolution of the Congress prior to the stated expiration date of the act, if one is provided. Thus, the Lend-Lease Act provided:

> After June 30, 1943, or after the passage of a concurrent resolution by the two Houses before June 30, 1943, which declares that the powers conferred by or pursuant to subsection (a) are no longer necessary to promote the defense of the United States, neither the President nor the head of any department or agency shall exercise any of the powers conferred by or pursuant to subsection (a); except that until July 1, 1946, any of such powers may be exercised to the extent necessary to carry out a contract or agreement with such a foreign government made before July 1, 1943, or before the passage of such concurrent resolution, whichever is the earlier.(4)

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1. 8 USC § 1254 (1970 ed.)
2. 70 Stat. 1044.
3. 70 Stat. 1045, § 4(c), 43 USC § 422d(d) (1970 ed.).
4. Act of Mar. 11, 1941, Ch. 11, § 3(c), 55 Stat. 32. See also the Selective Service Extension Act of Aug. 18, 1941, Ch. 362, § 2, 55 Stat. 626; the Emergency Price Control Act of June 30, 1942, Ch. 26, § 1(b), 56 Stat. 24; the Economic Cooperation Act of Apr. 3, 1948, Ch. 169, title I, § 122, 62 Stat. 155; the "Gulf of Tonkin Resolution" of Aug. 10, 1964, Pub. L. No. 88-408, § 3, 78 Stat. 384; and the War Powers

Collateral References

Congressional Adaptation: The Come-into-Agreement Provision. 37 Geo. Wash. L. Rev. 387 (1968).

Cooper, Joseph and Ann. The Legislative Veto and the Constitution. 30 Geo. Wash. L. Rev. 467 (1962).

Harris, Joseph P. *Congressional Control of Administration,* Ch. 8, The Legislative Veto. The Brookings Institution, Washington, D.C. (1964).

Jackson, Robert H. A Presidential Legal Opinion. 66 Harv. L. Rev. 1353 (1953).

Terminating Authority by Concurrent Resolution

§ 7.1 The House adopted a joint resolution relating to preservation of peace in Southeast Asia, authorizing the President to repel aggression by North Vietnam, and providing that the Congress may terminate such authority by concurrent resolution.

On Aug. 7, 1964,(5) the House considered and passed the following joint resolution (H.J. Res. 1145):

> Whereas naval units of the Communist regime in Vietnam, in violation of the principles of the Charter of the United Nations and of international law, have deliberately and repeatedly attacked United States naval vessels lawfully present in international waters, and have thereby created a serious threat to international peace; and
>
> Whereas these attacks are part of a deliberate and systematic campaign of aggression that the Communist regime in North Vietnam has been waging against its neighbors and the nations joined with them in the collective defense of their freedom; and
>
> Whereas the United States is assisting the peoples of Southeast Asia to protect their freedom and has no territorial, military or political ambitions in that area, but desires only that these peoples should be left in peace to work out their own destinies in their own way: Now, therefore, be it
>
> *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Congress approves and supports

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Resolution of Nov. 7, 1973, Pub. L. No. 93-148, § 5(c), 87 Stat. 556-557.

President Franklin D. Roosevelt objected to the inclusion of such a concurrent resolution disapproval provision in the Lend-Lease Act. However, he did not make his objections public because he felt the measure was urgently needed and he feared endangering its passage by his own pronouncement. R. H. Jackson, A Presidential Legal Opinion, 66 Harv. L. Rev. 1353, at 1356 (1953).

For a compilation of the views of a number of Presidents on the various forms of the legislative veto, see Hearings on the Separation of Powers Doctrine Before the Subcommittee on Separation of Powers of the Senate Committee on the Judiciary, 90th Cong. 1st Sess., pp. 215-228 (1967).

5. 110 Cong. Rec. 18538, 18539, 88th Cong. 2d Sess.

the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression.

Sec. 2. The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in Southeast Asia. Consonent with the Constitution of the United States and the Charter of the United Nations and in accordance with obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member of protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.

Sec. 3. This resolution shall expire when the President shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, except that it may be terminated earlier by concurrent resolution of the Congress.

Approval of Executive Plan

§ 7.2 The House passed a Senate joint resolution expressing approval of a report of the Department of the Interior on the construction of a dam and reservoir, and then tabled a similar House concurrent resolution called up on the Consent Calendar.

On Aug. 18, 1958,(6) Mr. Wayne N. Aspinall, of Colorado, sought and obtained unanimous consent that a Senate joint resolution be considered in lieu of a similar House concurrent resolution on the Consent Calendar.(7) The Senate joint resolution (S.J. Res. 190) was passed, and the House concurrent resolution was laid on the table. The proceedings were as follows:

> The Clerk called the resolution (H. Con. Res. 301) to approve the report of the Department of the Interior on Red Willow Dam and Reservoir in Nebraska.
>
> THE SPEAKER PRO TEMPORE [John W. McCormack, of Massachusetts]: Is there objection to the present consideration of the concurrent resolution?
>
> MR. ASPINALL: Mr. Speaker, I ask unanimous consent that a similar Senate resolution, Senate Joint Resolution 190, be considered in lieu of the House Concurrent Resolution.
>
> THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from Colorado?
>
> There being no objection, the Clerk read the Senate joint resolution, as follows:
>
> > *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the report of the Secretary of the Interior demonstrating

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6. 104 CONG. REC. 18290, 18291, 85th Cong. 2d Sess.
7. H. Con. Res. 301, 85th Cong. 2d Sess. (1958).

economic justification for construction and operation of the Red Willow Dam and Reservoir is hereby approved.(8)

Changing Effective Date of Executive Plan

§ 7.3 The House adopted a House joint resolution changing the effective date of a reorganization plan.

On May 23, 1940,(9) the House considered and passed the following joint resolution (H.J. Res. 551):

> *Resolved, etc.,* That the provisions of Reorganization Plan No. V, submitted to the Congress on May 22, 1940, shall take effect on the tenth day after the date of enactment of this joint resolution, notwithstanding the provisions of the Reorganization Act of 1939.
>
> Sec. 2. Nothing in such plan or this joint resolution shall be construed as having the effect of continuing any agency or function beyond the time when it would have terminated without regard to such plan or this joint resolution or of continuing any function beyond the time when the agency in which it was vested would have terminated without regard to such plan or this joint resolution.

§ 7.4 The House passed a Senate joint resolution changing the date when certain reorganization plans of the President would go into effect.

On June 1, 1939,(10) by direction of the Select Committee on Government Organization, Mr. John J. Cochran, of Missouri, called up a joint resolution (S.J. Res. 138) which the House considered and passed:

> *Resolved, etc.,* That the provisions of reorganization plan No. I, submitted to the Congress on April 25, 1939, and the provisions of reorganization plan No. II, submitted to the Congress on May 9, 1939, shall take effect on July 1, 1939, notwithstanding the provisions of the Reorganization Act of 1939.(11)

Disapproval of Executive Plan

§ 7.5 Formerly, a privileged concurrent resolution was used to express disapproval of an executive reorganization plan.

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8. *Parliamentarian's Note:* Pub. L. No. 84-505 (70 Stat. 126), provided that there should be no expenditure of funds for construction of the Red Willow Dam until the Secretary of the Interior, with the approval of the President, had submitted to the Congress a report and the Congress had approved such report. Following research as to the meaning of the word "Congress" in the statute, it was decided that the approval should take the form of a joint resolution for Presidential signature.

9. 86 Cong. Rec. 6713, 76th Cong. 3d Sess.

10. 84 Cong. Rec. 6527, 76th Cong. 1st Sess.

11. See also 86 Cong. Rec. 6712, 76th Cong. 3d Sess., May 23, 1940.

On May 3, 1939,(12) the House considered and rejected the following concurrent resolution:

HOUSE CONCURRENT RESOLUTION 19

Resolved by the House of Representatives (the Senate concurring), That the Congress does not favor the Reorganization Plan No. I, transmitted to Congress by the President on April 25, 1939.(13)

Discharge by Unanimous Consent

§ 7.6 The Select Committee on Reorganization was discharged from further consideration of a resolution disapproving a reorganization plan by unanimous consent.

On May 7, 1940,(14) Mr. Clarence F. Lea, of California, moved to discharge the Select Committee on Government Organization from further consideration of House Concurrent Resolution 60 (disapproving Reorganization Plan No. IV):(15)

THE SPEAKER:(16) The Clerk will report the resolution.

The Clerk read as follows:

HOUSE CONCURRENT RESOLUTION 60

Resolved by the House of Representatives (the Senate concurring), That the Congress does not favor the Reorganization Plan No. IV transmitted to Congress by the President on April 11, 1940.

MR. [JOHN J.] COCHRAN [of Missouri]: Mr. Speaker, the majority members of the Select Committee on Organization are in accord with the gentleman from California, and I ask unanimous consent that the motion of the gentleman from California to discharge the select

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12. 84 CONG. REC. 5085, 76th Cong. 1st Sess.
13. See also 93 CONG. REC. 7252, 80th Cong. 1st Sess., June 18, 1947; 93 CONG. REC. 6898, 80th Cong. 1st Sess., June 12, 1947; and 86 CONG. REC. 6027-49, 76th Cong. 3d Sess., May 14, 1940. The Reorganization Act of 1949 changed from concurrent to simple the form of resolution used in disapproving reorganization plans. June 20, 1949, Ch. 226, § 6, 63 Stat. 205; 5 USC § 906(a).
14. 86 CONG. REC. 5676, 76th Cong. 3d Sess.
15. 5 USC § 911(a) at that time provided that a motion to discharge a committee from further consideration of a resolution disapproving a reorganization plan of the President was privileged when the resolution had been before the committee for 10 calendar days. 5 USC § 911 at present provides that if the committee to which is referred a resolution as specified has not reported such resolution or identical resolution at the end of 45 calendar days of continuous session of Congress after its introduction, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved. Pub. L. No. 81-109 as amended by Pub. L. No. 95-17 and extended by Pub. L. No. 96-230.
16. Sam Rayburn (Tex.).

committee be considered as having been agreed to.

The Speaker: Without objection, it is so ordered.

There was no objection.

Parliamentarian's Note: The motion here was privileged, but was agreed to by unanimous consent to avoid debate and a vote on the discharge motion.

Qualification to Offer Motion to Discharge Resolution

§ 7.7 A Member must qualify as being in favor of a resolution disapproving a reorganization plan in order to move to discharge a committee from further consideration thereof.

On Aug. 3, 1961,(17) Mr. H. R. Gross, of Iowa, offered the following motion:

> Mr. Gross moves to discharge the Committee on Government Operations from further consideration of House Resolution 335, introduced by Mr. Monagan, disapproving Reorganization Plan No. 6, transmitted to Congress by the President on June 12, 1961.

The Speaker:(18) Is the gentleman in favor of the resolution?

Mr. Gross: Mr. Speaker, I am in favor of the disapproving resolution, yes.

The Speaker: The gentleman is entitled to 30 minutes.(19)

Debate on Motion to Discharge

§ 7.8 Debate on a motion to discharge a committee from further consideration of a resolution disapproving a reorganization plan is limited to one hour and is equally divided between the Member making the motion and a Member opposed thereto.

On Aug. 3, 1961,(20) Mr. H. R. Gross, of Iowa, offered a privileged motion:

The Clerk read as follows:

> Mr. Gross moves to discharge the Committee on Government Operations from further consideration of House Resolution 335, introduced by Mr. Monagan, disapproving Reorganization Plan No. 6, transmitted to Congress by the President on June 12, 1961.

The Speaker:(1) Is the gentleman in favor of the resolution?

Mr. Gross. Mr. Speaker, I am in favor of the disapproving resolution, yes.

The Speaker: The gentleman is entitled to 30 minutes.

The gentleman from Florida will be recognized for 30 minutes.(2)

Parliamentarian's Note: The Member opposed must also qualify.

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17. 107 Cong. Rec. 14548, 87th Cong. 1st Sess.
18. Sam Rayburn (Tex.).
19. See 5 USC § 911.
20. 107 Cong. Rec. 14548, 87th Cong. 1st Sess.
1. Sam Rayburn (Tex.).
2. See 5 USC § 911(b).

§ 7.9 Debate on a motion to discharge the Committee on Government Operations from consideration of a resolution disapproving a reorganization plan was, by unanimous consent, extended from one to two hours to be controlled and divided by the proponent of the motion and a Member designated by the Speaker.

On July 18, 1961,[3] Mr. John W. McCormack, of Massachusetts, made the following unanimous-consent request:

> MR. MCCORMACK: Mr. Speaker, I ask unanimous consent that in the event a motion is made to discharge the Committee on Government Operations on the resolution disapproving Reorganization Plan No. 7, that the time for debate be extended from 1 hour to 2 hours, one-half to be controlled by the proponent of the motion and one-half by a Member designated by the Speaker.
>
> THE SPEAKER:[4] Is there objection to the request of the gentleman from Massachusetts?
>
> There was no objection.[5]

§ 7.10 The Presiding Officer ruled that in the Senate the one hour of debate on a motion to discharge a committee from further consideration of a resolution disapproving a reorganization plan is inclusive of time consumed by quorum calls, parliamentary inquiries, and points of order.

On Feb. 20, 1962,[6] during consideration of a motion to discharge the Committee on Government Operations from further consideration of Senate Resolution 288, opposing Reorganization Plan No. 1 of 1962, Senator Mike Mansfield, of Montana, raised a parliamentary inquiry:

> Mr. President, I should like to raise a parliamentary inquiry of my own: I should like to have a ruling from the Chair as to the appropriate procedure for a motion of this kind.
>
> THE VICE PRESIDENT:[7] The understanding of the Chair is that debate on the motion is limited to 1 hour, to be equally divided. If a point of order is made or if there is a quorum call or if the Senator from Montana or any other Senator obtains the floor and speaks, the time available under the motion will be running.

Parliamentarian's Note: The ruling in the House would be to the contrary. Under the precedents, since debate is not set by the clock, votes, quorum calls, etc., do not come out of the time.

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[3] 107 CONG. REC. 12774, 87th Cong. 1st Sess.

[4] Sam Rayburn (Tex.).

[5] Debate on motions to discharge resolutions disapproving reorganization plans is limited to one hour (63 Stat. 207, 5 USC § 911(b)) rather than 20 minutes under the normal discharge procedure (Rule XXVII clause 4, *House Rules and Manual* § 908 (1981)).

[6] 108 CONG. REC. 2528, 87th Cong. 2d Sess.

[7] Lyndon B. Johnson (Tex.).

Motion to Consider Resolution of Disapproval

§ 7.11 A motion that the House resolve itself into the Committee of the Whole for the consideration of a resolution disapproving a reorganization plan is highly privileged and may be called up by any Member.

On June 8, 1961,(8) Mr. H. R. Gross, of Iowa, raised a parliamentary inquiry:

> Mr. Speaker, is it in order and proper at this time to submit a highly privileged motion?
>
> THE SPEAKER PRO TEMPORE:(9) If the matter to which the gentleman refers is highly privileged, it would be in order.
>
> MR. GROSS: Then, Mr. Speaker, under the provisions of section 205(a) Public Law 109, the Reorganization Act of 1949,(10) I submit a motion. . . .

The Clerk read as follows:

> Mr. Gross moves that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of H. Res. 303 introduced by Mr. Monagan disapproving Reorganization Plan No 2 transmitted to the Congress by the President on April 27, 1961.(11)

Consideration of Resolution of Disapproval

§ 7.12 The following procedure was employed in the House in considering a resolution disapproving a reorganization plan of the President.

On June 10, 1947,(12) Mr. Clare E. Hoffman, of Michigan, made the following statement regarding a resolution disapproving the President's Reorganization Plan No. 2 of 1947:

> Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of House Concurrent Resolution 49; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to 3 hours, the time to be equally divided and controlled by the gentleman from Alabama [Mr. Manasco] and myself.

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8. 107 CONG. REC. 9775-77, 87th Cong. 1st Sess.
9. Oren Harris (Ark.).
10. Section 205 of the Reorganization Act of 1949 (68 Stat. 207, 5 USC § 912(a)) provided "When the Committee has reported, or has been discharged from further consideration of, a resolution with respect to a reorganization plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable."
11. 107 CONG. REC. 9777, 87th Cong. 1st Sess.
12. 93 CONG. REC. 6722, 80th Cong. 1st Sess.

THE SPEAKER:(13) Is there objection to the request of the gentleman from Michigan?

There was no objection.

THE SPEAKER: The question is on the motion offered by the gentleman from Michigan?

The motion was agreed to.

§ 7.13 After a committee has reported a resolution disapproving a reorganization plan, any Member may move that the House proceed to consideration thereof, and a Member is not required to qualify as being in favor of the resolution in order to move that the House resolve into the Committee of the Whole to consider it.

On July 19, 1961,(14) Mr. Dante B. Fascell, of Florida, moved that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 328) disapproving Reorganization Plan No. 5 transmitted to the Congress by the President on May 24, 1961. Mr. H. R. Gross, of Iowa, raised a parliamentary inquiry based on his contention that a Member so moving must qualify as being in favor of such resolution.

MR. GROSS: . . . Is the gentleman from Florida in favor of the resolution, or does he disfavor the resolution?

THE SPEAKER:(15) Under the rules, the gentleman does not have to qualify in that respect on this particular motion.(16)

Precedence of Consideration

§ 7.14 Consideration of resolutions disapproving reorganization plans of the President does not take precedence over a grant of unanimous consent for the consideration of an appropriation bill, unless the Committee on Appropriations yields for that purpose.

On May 9, 1950,(17) Mr. Clare E. Hoffman, of Michigan, raised a point of order against the consideration of the general appropriation bill of 1951 (H.R. 7786):

> MR. HOFFMAN of Michigan: Mr. Speaker, I make the point of order that the House is not proceeding in the regular order because under section 205a of the Reorganization Act, which is Public Law 109 of the Eighty-first Congress, first session, any Member of the House is privileged, and this is a highly privileged motion, to make the motion that the House proceed to the consideration of House Resolution 516.
>
> The gentleman from Michigan being on his feet to present this highly privi-

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13. Joseph W. Martin, Jr. (Mass.).

14. 107 CONG. REC. 12905, 12906, 87th Cong. 1st Sess.

15. Sam Rayburn (Tex.).

16. See 5 USC § 912(a).

17. 96 CONG. REC. 6720–24, 81st Cong. 2d Sess.

leged motion, the regular order is that he be recognized for that purpose that the motion be entertained and the question put before the House, and my motion is that the House proceed to the consideration of House Resolution 516.

The Speaker Pro Tempore:[18] That is the resolution disapproving one of the reorganization plans?

Mr. Hoffman of Michigan: That is right, House Resolution 516 disapproving plan No. 12. . . .

The Speaker Pro Tempore: Does the gentleman from Texas desire to be heard on the point of order?

Mr. [George H.] Mahon [of Texas]: Mr. Speaker, on April 5, 1950, as shown at page 4835 of the daily record of that day, the chairman of the Committee on Appropriations, the gentleman from Missouri [Mr. Cannon] asked and received unanimous consent that the appropriation bill should have the right-of-way over other privileged business under the rules until disposition, with the exception of conference reports. Therefore, I believe the regular order would be to proceed with the further consideration of H.R. 7786.

Mr. Speaker, I believe that the Record would speak for itself. . . .

Mr. [John] Taber [of New York]: Under the established rules of practice of the House, when a special order like that is granted, like that which was granted at the request of the gentleman from Missouri [Mr. Cannon], if those in charge of the bill do not present on any occasion a motion to go into Committee of the Whole, it is in order for the Speaker to recognize other Members for other items that are in order on the calendar. That does not deprive the holder of that special order of the right, when those items are disposed of, to move that the bill be considered further in Committee of the Whole.

Mr. [Robert F.] Rich [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Rich: If the 21 resolutions that were presented to the House by the President, a great many of which have been considered by the Committee on Expenditures in the Executive Departments—of which the chairman is a member, and which have been acted on by that committee—are not presented to the House before the twenty-fourth of this month, they become law. The general appropriation bill does not necessarily have to be passed until the 30th of June, but it is necessary that the 21 orders of the President be brought before the House so they can be acted on by the twenty-fourth of this month, and it seems to me that they ought to take precedence over any other bill.

The Speaker Pro Tempore: The gentleman has made a statement of fact, not a parliamentary inquiry.

Mr. [John E.] Rankin [of Mississippi]: Mr. Speaker, may I be heard on the point of order?

The Speaker Pro Tempore: The Chair will hear the gentleman.

Mr. Rankin: I was going to say that if this is of the highest constitutional privilege it comes ahead of the present legislation.

The Speaker Pro Tempore: The Chair is prepared to rule.

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[18] John W. McCormack (Mass.).

The gentleman from Michigan makes a point of order, the substance of which is that the motion he desires to make or that someone else should make in relation to the consideration of a disapproving resolution of one of the reorganization plans takes precedence over the appropriation bill insofar as recognition by the Chair is concerned. The gentleman from Michigan raises a very serious question and the Chair feels at this particular time that it is well that he did so.

The question involved is not a constitutional question but one relating to the rules of the House and to the Legislative Reorganization Act of 1949 which has been alluded to by the gentleman from Michigan and other Members when addressing the Chair on this point of order. The Chair calls attention to the language of paragraph (b) of section 201 of title II of the Reorganization Act of 1949 which reads as follows: "with full recognition of the constitutional right of either House to change such rules so far as relating to procedure in such House at any time in the same manner and to the same extent as in the case of any other rule of such House."

It is very plain from that language that the intent of Congress was to recognize the reservation to each House of certain inherent powers which are necessary for either House to function to meet a particular situation or to carry out its will.

On April 5, the gentleman from Missouri [Mr. Cannon], chairman of the Committee on Appropriations, submitted a unanimous-consent request to the House, which was granted, which has the force of a rule, and which relates to the rules of the House governing the consideration of the omnibus appropriation bill while it is before the House and, of course, incidentally affecting other legislation. The consent request submitted by the gentleman from Missouri was "that the general appropriation bill for the fiscal year 1951 have right-of-way over all other privileged business under the rules until disposition, with the exception of conference reports."

That request was granted by unanimous consent. On the next day the gentleman from Missouri [Mr. Cannon], in correcting and interpreting the consent request granted on April 5, submitted a further unanimous-consent request.

The daily Record shows, on page 4976, April 6, that the gentleman from Missouri [Mr. Cannon] said:

> Mr. Speaker, on page 4835 of the daily Record of yesterday, the first column carrying the special order made by the House last night reads that the general appropriation bill shall be a special order privileged above all other business of the House under the rule until disposition. The order made was until final disposition. I ask unanimous consent that the Record and Journal be corrected to conform with the proceedings on the floor of the House yesterday.

The Record further shows that the Speaker put the request and there was no objection.

Mr. Rankin: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: Let the Chair finish.

Mr. Rankin: Mr. Speaker, I would like to propound a parliamentary inquiry at this time.

The Speaker Pro Tempore: The Chair is in the process of making a ruling.

Mr. Rankin: That is the reason I want to propound the inquiry right at this point.

The Speaker Pro Tempore: The Chair recognizes the gentleman.

Mr. Rankin: We for the first time this year have all the appropriations in one bill. Now, if they drag out consideration under the 5-minute rule beyond the 24th, would that not shut the Congress off entirely from voting on any of these recommendations? So we do have a constitutional right to consider these propositions without having them smothered in this way.

The Speaker Pro Tempore: The Chair will state that the House always has a constitutional right and power to refuse to go into the Committee of the Whole on any motion made by any Member, so that the House is capable of carrying out its will, whatever may be the will of the majority of the House.

Continuing, the Chair will state that in the opinion of the present occupant, in view of the unanimous-consent request made by the gentleman from Missouri and granted by the House if any member of the Appropriations Committee moves that the House resolve itself into the Committee of the Whole on the State of the Union to consider the appropriation bill, that motion has preference over any other preferential motion. It is a matter that the House decides when the motion is made as to what it wants to do and it has an opportunity when that motion is made to carry out its will.

Mr. [Arthur L.] Miller of Nebraska: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Miller of Nebraska: I understood the statement of the gentleman from Missouri on April 6 was that the appropriation bill would take precedence over all legislation and special orders until entirely disposed of. Does that include conference reports?

The Speaker Pro Tempore: A conference report is in a privileged status in any event.

Mr. Taber: They were specifically exempted.

The Speaker Pro Tempore: They were specifically exempted. In relation to the observation made by the gentleman from Michigan [Mr. Hoffman] that because other business has been brought up and that therefore constitutes a violation of the unanimous-consent request, the Chair, recognizing the logic of the argument, disagrees with it because that action was done through the sufference of the Appropriations Committee and, in the opinon of the Chair, does not constitute a violation in any way; therefore does not obviate the meaning and effect of the unanimous-consent request heretofore entered into, and which the Chair has referred to.

For the reasons stated, the Chair overrules the point of order.

Mr. Hoffman of Michigan: Mr. Speaker, a further point of order.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Hoffman of Michigan: The point of order is the same as I raised before; but, to keep the Record clear, I wish to make the same point of order regarding House Resolution 522, House Resolution 545, and House Resolution 546, that is, that the House proceed to the consideration of each of those resolutions in the order named, assuming, of course, that the ruling will be the same, but making a record.

The Speaker Pro Tempore: The Chair will reaffirm his ruling in relation to the several resolutions the gentleman has referred to.

Mr. [Herman P.] Eberharter [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Eberharter: I believe I am correct, Mr. Speaker, in stating that since the unanimous-consent request of the gentleman from Missouri [Mr. Cannon] was granted, that the House took up a measure under the new 21-day rule. I would like to know, Mr. Speaker, whether or not that was taken up because of its high privilege or whether it was taken up because of the sufference of the chairman of the Committee on Appropriations, the gentleman from Missouri [Mr. Cannon].

The Speaker Pro Tempore: The present occupant of the Chair, of course, is unable to look into the mind of the Speaker who was presiding at the time. But from the knowledge that the Chair has, which, of course, is rather close, it was because the chairman of the Committee on Appropriations permitted it to be done through sufference. In other words, if the chairman of the Committee on Appropriations had insisted on going into the Committee of the Whole House on the State of the Union, and if the present occupant of the chair had been presiding, there is nothing else that could have been done under the unanimous-consent request, in the Chair's opinion, but to recognize the motion.

Mr. Eberharter: A further parliamentary inquiry, Mr. Speaker.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Eberharter: As I understand the unanimous-consent request of the gentleman from Missouri, it was that the appropriation bill would take preference over any other matters having a high privilege. My understanding of the new 21-day rule is that that is a matter of the highest privilege, and therefore I am wondering whether the same rule applies.

The Speaker Pro Tempore: The gentleman is correct, but that rule can be changed just like any other rule of the House can be changed.

Mr. Eberharter: But the gentleman from Missouri did not insist on all matters having the highest privilege. According to the Record, he only made his request with respect to motions having a high privilege.

The Speaker Pro Tempore: The unanimous-consent request, I might advise the gentleman from Pennsylvania, appears in the Record of April 6, that the general appropriation bill shall be a special order privileged above all other business of the House under the rule until disposition. The order made was "until final disposition."

§ 7.15 The Speaker permitted consideration and debate on a conference report to intervene between consideration of two resolutions disapproving of two

Presidential reorganization plans where the original papers accompanying the conference report were messaged from the Senate before consideration of the second resolution had begun.

On Sept. 28, 1970,(19) the Speaker(1) recognized a Member to call up a conference report on a bill dealing with railroad safety (S. 1933) after consideration of the first of two reorganization plans and before debate was to begin on the second.(2) He announced his intention to do so as follows:

> The Chair has been informed and understands that the original papers on the next conference report have not been messaged over to the House as yet. They will be here shortly.
>
> The Chair will recognize the gentleman from California (Mr. Holifield) in connection with the first reorganization plan, and if the papers [on the conference report] arrive between consideration of the first and second reorganization plans, the Chair will recognize the gentleman from West Virginia at that time.

Limitations on Time for Debate

§ 7.16 Debate on resolutions disapproving reorganization plans is fixed by statute, and the Senate rule relative to the time for debate on usual propositions does not apply.

On May 14, 1940,(3) the Senate considered a concurrent resolution (S. Con. Res. 43) disapproving a Presidential reorganization plan. The Vice President(4) made the following statement:

> Let the Chair make a statement with reference to the statutory and parliamentary situation. The statute, as the Chair understands it, and as it was interpreted by the President pro tempore yesterday—and the Chair thinks he was correct—divides the time equally between those for and those against the pending resolution. The Parliamentarian advises the Chair that those favoring the resolution have 2 hours and 4 minutes and those opposed to it have 1 hour and 56 minutes. Ordinarily, under the rules of the Senate, when a Senator is recognized he may continue to address the Senate indefinitely. In this case, however, the statute limits the time. Any Senator recognized now can continue until the limitation of time for his side would take him from the floor. The Chair is going to recognize the Senator from Vermont. He has 2 hours and 4 minutes on his side. When he ceases, some other Senator then will be recognized. The Chair thought he ought to make this statement, so that the Senate may

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19. 116 Cong. Rec. 33870, 91st Cong. 2d Sess.
1. John W. McCormack (Mass.).
2. The House was considering H. Res. 1209, disapproving of Reorganization Plan No. 3 and H. Res. 1210, disapproving of Plan No. 4.
3. 86 Cong. Rec. 6027, 76th Cong. 3d Sess.
4. John N. Garner (Tex.).

understand the parliamentary situation.

§ 7.17 By unanimous consent, debate on a resolution disapproving Reorganization Plan No. 1 of 1959, was limited to two hours in lieu of the 10 hours allowed under the Reorganization Act of 1949.

On July 1, 1959,(5) Mr. Neal Smith, of Iowa, asked unanimous consent that debate on House Resolution 295 disapproving Reorganization Plan No. 1 of 1959 scheduled for consideration on the following Monday be limited to two hours, one-half of the time to be controlled by the majority and one-half of the time to be controlled by the minority.

There was no objection.(6)

§ 7.18 A resolution disapproving a reorganization plan was called up and debated for two hours in the Committee of the Whole under a previous unanimous-consent agreement.

On July 6, 1959,(7) Mr. Dante B. Fascell, of Florida, moved that the House resolve itself under the Committee of the Whole House on the state of the Union for the consideration of the resolution (H. Res. 295) disapproving Reorganization Plan No. 1 of 1959. The proceedings in the Committee of the Whole were as follows:

> THE CHAIRMAN:(8) Under the consent agreement of Wednesday, July 1,(9) 2 hours of general debate are allowed on the resolution, to be equally divided between the majority and the minority.

At the conclusion of debate Mr. Fascell moved:

> Mr. Chairman, I move that the Committee do now rise and report the resolution back to the House with the recommendation that it do pass.
>
> The motion was agreed to.

§ 7.19 A resolution disapproving a reorganization plan of the President was, by unanimous consent, considered in the House as in Committee of the Whole, debated for only five minutes, and passed.

On June 18, 1947,(10) the House considered a concurrent resolution disapproving Reorganization Plan No. 3 of the President. The proceedings were as follows:

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5. 105 CONG. REC. 12519, 86th Cong. 1st Sess.
6. Section 205 of the Reorganization Act of 1949 (63 Stat. 207, 5 USC § 912) permits 10 hours of debate on such a resolution.
7. 105 CONG. REC. 12740-46, 86th Cong. 1st Sess.
8. Stewart L. Udall (Ariz.).
9. 105 CONG. REC. 12519, 86th Cong. 1st Sess.
10. 93 CONG. REC. 7252, 80th Cong. 1st Sess.

REORGANIZATION PLAN NO. 3

MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Speaker, I move that the House proceed to take up House Concurrent Resolution 51, which does not favor Reorganization Plan No. 3 of May 27, 1947, and, pending that motion, I ask unanimous consent that the resolution may be considered in the House as in the Committee of the Whole and that general debate be limited to 5 minutes.

THE SPEAKER:(11) Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the resolution, as follows:

> *Resolved by the House of Representatives (the Senate concurring),* That the Congress does not favor the Reorganization Plan No. 3 of May 27, 1947, transmitted to Congress by the President on the 27th day of May 1947.

THE SPEAKER: The gentlemen from Michigan is recognized for 5 minutes.

MR. HOFFMAN: Mr. Speaker, I understand there is no objection to this resolution.

I yield to the gentleman from Alabama [Mr. Manasco], ranking minority member of the committee, to explain the resolution and any opposition, if any there be.

MR. [CARTER] MANASCO: Mr. Speaker, a similar plan was sent up during the Seventy-ninth Congress and rejected by the House.

This plan reorganizes the housing agencies of the Government. Our committee thinks these agencies should be reorganized but we do not think the lending and insuring agencies should be placed in the same organization with the construction agency.

I have no requests for time on this side. That is the only issue involved.

MR. HOFFMAN: Mr. Speaker, I have no further requests for time.

I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

§ 7.20 In considering three resolutions disapproving three reorganization plans of the President, the House agreed by unanimous consent that the three resolutions be considered together, that debate be limited to three hours, and that after debate the resolutions be voted on separately.

On June 28, 1946,(12) Mr. Carter Manasco, of Alabama, made the following unanimous-consent request regarding resolutions of disapproval of the President's Reorganization Plans Nos. 1, 2, and 3:

REORGANIZATION PLANS NO. 1, NO. 2, AND NO. 3

MR. MANASCO: Mr. Speaker, I call up House Concurrent Resolution 155, and I ask unanimous consent that House Concurrent Resolutions 154 and 151 be considered; that the debate be limited on the three resolutions to 3 hours, the time to be divided equally between myself and the ranking minority

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11. Joseph W. Martin, Jr. (Mass.).

12. 92 CONG. REC. 7886, 79th Cong. 2d Sess.

member of the Committee on Expenditures in the Executive Departments; that after 3 hours of general debate on the resolutions, the resolutions be voted on separately.

Mr. [Joseph W.] Martin [Jr.] of Massachusetts: Mr. Speaker, reserving the right to object, as I understand it, in these 3 hours a Member may talk about any one of the three resolutions.

The Speaker:(13) That is correct.

Mr. Martin of Massachusetts: And that at the end of general debate the resolutions will be voted on separately.

Mr. Manasco: Each resolution separately.

Mr. Speaker, I ask unanimous consent also that the plans be voted on in their order, plan 1 first; plan 2, second; and plan 3, third.

Mr. [William A.] Pittenger [of Minnesota]: Mr. Speaker, reserving the right to object, it is the resolutions that must be voted on.

Mr. Manasco: That is correct.

Mr. [John W.] McCormack [of Massachusetts]: Reserving the right to object, the gentlemen have agreed on time, which is very satisfactory. The only suggestion I have to make is that I hope they do not use the entire 3 hours.

The Speaker: The gentleman from Alabama ask unanimous consent that there be 3 hours of general debate on these resolutions, at the end of which time the resolutions are to be voted on separately in this order: Plan No. 1, plan No. 2, and plan No. 3.

Is there objection?

There was no objection.

Consideration Without Debate

§ 7.21 A resolution disapproving a reorganization plan was considered in the House as in the Committee of the Whole by unanimous consent and agreed to by voice vote without debate.

On July 15, 1956,(14) Mr. William L. Dawson, of Illinois, asked unanimous consent that House Resolution 534 disapproving Reorganization Plan No. 1 be considered in the House as in the Committee as the Whole.

The Speaker:(15) Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Speaker: The question is on the resolution.

The question was taken.

The Speaker: In the opinion of the Chair, the resolution having received an affirmative vote of a majority of the authorized membership of the House, the resolution is agreed to.(16)

Control of Time in Opposition

§ 7.22 The Member calling up a resolution disapproving a reorganization plan announced that the majority and minority mem-

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13. Sam Rayburn (Tex.).

14. 102 Cong. Rec. 11886, 84th Cong. 2d Sess.

15. Sam Rayburn (Tex.).

16. A similar procedure was employed to adopt a resolution (H. Res. 541) disapproving Reorganization Plan No. 2 of 1956. See 102 Cong. Rec. 11886, 84th Cong. 2d Sess., July 5, 1956.

bers of the Committee on Government Operations (both in favor of the plan) would yield half of their time to Members opposed to the resolution, who would in turn control the time in opposition.

On Aug. 9, 1967,(17) the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of House Resolution 512 disapproving Reorganization Plan No. 3 of 1967. The Chairman(18) then made the following announcement:

> Under the unanimous-consent agreement of Thursday, August 3, 1967, general debate on the resolution will continue for not to exceed 4 hours, to be equally divided and controlled by the gentleman from Minnesota [Mr. Blatnik] and the gentlewoman from New Jersey [Mrs. Dwyer].
>
> The Chair recognizes the gentleman from Minnesota. . . .
>
> Mr. [Porter] Hardy [Jr., of Virginia]: I wonder if we could have an understanding now so that there will not be any confusion as to how the time will be divided. I am sure the gentleman from Minnesota has already indicated what he plans to do, but I think it might be well if we had that cleared up now, if the gentleman would not mind?
>
> Mr. [John A.] Blatnik: I will be pleased to do so and I think the gentleman has made a very proper request.
>
> What we have done by agreement of the leadership on both sides of the House, and by agreement with the majority and minority leadership of the House Committee on Government Operations and of the Committee on the District of Columbia is that we have agreed to divide the time equally between the proponents and the opponents as follows:
>
> The minority will divide their time with 1 hour allocated to the opponents and 1 hour for the proponents.
>
> The majority on our side have done the same thing, to allocate 1 hour to the proponents and 1 hour to the opponents.
>
> The time for the opponents on the majority side will be handled by the gentleman from Virginia [Mr. Hardy], and I shall handle the time for the proponents.
>
> I understand the gentleman from Illinois [Mr. Erlenborn] will handle the time on the minority side for the proponents on their side and the gentleman from Minnesota [Mr. Nelsen] will handle the time for the opponents.(19)

Amendment of Resolution

§ 7.23 A motion that the Committee of the Whole rise and report a resolution to disapprove a reorganization plan back to the

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17. 113 Cong. Rec. 21941, 90th Cong. 1st Sess.

18. William L. Hungate (Mo.).

19. Under the law debate on a resolution disapproving a reorganization plan is divided equally between the proponents and opponents of the resolution. 5 USC § 912(b).

House, with the recommendation that the enacting clause be stricken out, was held not in order on the ground that there would be no amendment stage during which to offer the motion.

On June 27, 1953,(20) during consideration in the Committee of the Whole of a resolution (H. Res. 295) disapproving Reorganization Plan No. 6, Mr. W. Sterling Cole, of New York, made the following motion:

> Mr. Chairman, I offer a preferential motion.
>
> The Clerk read as follows:
>
> > Mr. Cole of New York moves that the Committee do now rise with the recommendation that the enacting clause be stricken.
>
> MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Chairman, I make the point of order that the motion is not in order.
>
> THE CHAIRMAN:(1) The Chair is compelled to agree with the gentleman from Michigan. The resolution is not amendable and, therefore, the preferential motion is not in order.(2)

House Consideration of Report of Committee of the Whole

§ 7.24 When the Committee of the Whole has reported back to the House its recommendation regarding the adoption or rejection of a resolution disapproving a reorganization plan, the question in the House recurs on the adoption of the resolution of disapproval and not on concurring in the committee's recommendation.

On Feb. 21, 1962,(3) the Committee of the Whole House on the state of the Union considered a resolution (H. Res. 530) disapproving Reorganization Plan No. 1 transmitted to the Congress by the President on Jan. 30, 1962, and reported the resolution back to the House with the recommendation that it not be agreed to.

The Speaker(4) ordered the resolution read by the Clerk and announced that the question was on the adoption of the resolution.

Voting on Resolutions of Disapproval

§ 7.25 An affirmative vote of a majority of the authorized membership of the House is required to adopt a resolution disapproving a reorganization plan of the President, and such vote may be had by viva voce, by division, or by the yeas and nays.

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20. 99 CONG. REC. 7482, 83d Cong. 1st Sess.
1. Leslie C. Arends (Ill.).
2. See 5 USC § 912(b).
3. 108 CONG. REC. 2679, 2680, 87th Cong. 2d Sess.
4. John W. McCormack (Mass.).

On Aug. 11, 1949,(5) during consideration in the House of a resolution (H. Res. 301) disapproving Reorganization Plan No. 2 of 1949 and adversely reported from the Committee on Expenditures in the Executive Departments, Mr. Charles A. Halleck, of Indiana, raised a parliamentary inquiry:

Further, Mr. Speaker, do I understand correctly that under the terms of the Reorganization Act under which we are operating the proponents of the resolution who by that resolution would seek to disapprove Reorganization Plan No. 2 would have to have 218 votes actually present and voting in order to carry the resolution?

The Speaker:(6) That is correct; that is the law, and the Chair will take this opportunity to read the law:

> Sec. 6. (a) Except as may be otherwise provided pursuant to subsection (c) of this section, the provisions of the reorganization plan shall take effect upon the expiration of the first period of 60 calendar days of continuous session of the Congress, following the date on which the plan is transmitted to it; but only if, between the date of transmittal and the expiration of such 60-day period there has not been passed by either of the two Houses by the affirmative vote of a majority of the authorized membership of that House, a resolution stating in substance that that House does not favor the reorganization plan.

Mr. [Clarence J.] Brown of Ohio: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Brown of Ohio: How will the Chair determine whether there are 218 votes cast in favor of the resolution?

The Speaker: By the usual method: Either by a viva voce vote, division vote, or a vote by the yeas and nays.

The question is on the resolution.

The question was taken.

The Speaker: In the opinion of the Chair the resolution not having received the affirmative vote of a majority of the authorized membership of the House, the resolution is not agreed to.

So the resolution was rejected.

Rejection by House as Affecting Senate Action

§ 7.26 Where the House disagrees to a reorganization plan submitted by the President, it notifies the Senate of its action, and the Senate may indefinitely postpone further consideration of a resolution disapproving the same reorganization plan.

On July 20, 1961,(7) there was received in the Senate a message from the House announcing that the House had agreed to a resolution (H. Res. 328) disapproving Reorganization Plan No. 5 transmitted to Congress by the President on May 24, 1961.

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5. 95 Cong. Rec. 11314, 81st Cong. 1st Sess.
6. Sam Rayburn (Tex.).
7. 107 Cong. Rec. 13017, 87th Cong. 1st Sess.

Senator Mike Mansfield, of Montana, subsequently moved that Senate Resolution 158, disapproving Reorganization Plan No. 5, be indefinitely postponed.

The motion was agreed to.(8)

§ 7.27 The House having agreed to a resolution disapproving a reorganization plan, the Senate Committee on Government Operations ordered reported, without recommendation, a resolution to the same effect.

On June 16, 1961,(9) Senator John L. McClellan, of Arkansas, made the following statement in the Senate:

> Mr. President, on June 13, 1961, the Committee on Government Operations, in executive session, ordered reported, without recommendations, S. Res. 142, expressing disapproval of Reorganization Plan No. 2 of 1961.
>
> Under section 6 of the Reorganization Act of 1949, as amended, a reorganization plan may not become effective if a resolution of disapproval is adopted by a simple majority of either House. On June 15, 1961, the House of Representatives adopted House Resolution 303, to disapprove Reorganization Plan No. 2 of 1961. Since this action results in the final disposition of the matter, it is no longer necessary either for the Committee on Government Operations to file a report on S. Res. 142, or for the Senate to take any further action.
>
> I call attention to the fact, however, that hearings on that resolution have been held and will be available shortly for the information of Members of the Senate. Legislation to enact certain provisions of Reorganization Plan No. 2 is now pending before the Senate Committee on Commerce—S. 2034—and the House Committee on Interstate and Foreign Commerce—H.R. 7333—and the House committee has now completed hearings on H.R. 7333.
>
> I thought it proper to make this announcement in view of the fact that the committee had voted to report the resolution as I have indicated.

§ 8. Resolutions of Inquiry

The resolution of inquiry(10) is a simple resolution making a direct request or demand of the President or the head of an executive department to furnish the House of Representatives with specific factual information in the possession of the executive branch. The practice is nearly as old as the Republic,(11) and is based on principles of comity between the executive and legislative branches rather than on any specific provision of the Constitution that a fed-

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8. *Id.* at p. 13027.
9. 107 Cong. Rec. 10628, 87th Cong. 1st Sess.
10. See also Ch. 15, Investigations and Inquiries, supra.
11. See 3 Hinds' Precedents §§ 1856 et seq.

eral court may be called upon to enforce.

The resolution of inquiry is privileged, i.e. it may be considered at any time after it is properly reported or discharged from committee.(12)

The resolution must be directed to the President or the head of an executive department,(13) and it must call for the reporting of facts within their knowledge or control. If it calls for an opinion(14) or an investigation,(15) the resolution does not enjoy a privileged status.

Committee Jurisdiction

§ 8.1 When introduced, resolutions of inquiry are referred to the committee having jurisdiction over the type of information or program at which the resolution is directed.

Resolutions of inquiry directing the Secretary of State to transmit information touching the ratification of certain trade agreements come within the jurisdiction of the Committee on Ways and Means.

On June 3, 1935,(16) Mr. Harold Knutson, of Minnesota, introduced a resolution of inquiry (H. Res. 236) directing the Secretary of State to transmit to the House of Representatives information touching upon the failure of the Republics of Brazil and Columbia to ratify certain trade agreements.

The resolution was referred to the Committee on Ways and Means.

Scope of Inquiry; Soliciting Opinions

§ 8.2 A resolution of inquiry seeking an opinion rather than a recital of facts from the head of an executive department is not privileged and is therefore not subject to a motion to discharge.

On July 7, 1971,(17) Ms. Bella S. Abzug, of New York, moved to discharge the Committee on Armed Services from further consideration of House Resolution 491, a privileged resolution of inquiry:

> *Resolved*, That the President, the Secretary of State, Secretary of Defense, and the Director of the Central Intelligence Agency be, and they are hereby, directed to furnish the House of Representatives within fifteen days

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12. See § 8.6, infra.
13. 3 Hinds' Precedents §§ 1861-1864; and 6 Cannon's Precedents § 406.
14. See § 8.3, infra.
15. 3 Hinds' Precedents §§ 1872-1874; and 6 Cannon's Precedents §§ 422, 427, 429, 432.
16. 79 CONG. REC. 8604, 74th Cong. 1st Sess.
17. 117 CONG. REC. 23810, 23811, 92d Cong. 1st Sess.

after the adoption of this resolution with full and complete information on the following—

the history and rationale for United States involvement in South Vietnam since the completion of the study entitled "United States—Vietnam Relationships, 1945–1967", prepared by the Vietnam Task Force, Office of the Secretary of Defense;

the known existing plans for residual force of the United States Armed Forces in South Vietnam;

the nature and capacity of the government of the Republic of Vietnam including but not limited to analyses of their past and present military capabilities, their capacity for military and economic self-sufficiency including but not limited to analyses of the political base of the Republic, the scope, if any, of governmental malfunction and corruption, the depth of popular support and procedures for dealing with nonsupport; including but not limited to known existing studies of the economy of the Republic of South Vietnam and the internal workings of the government of the Republic of South Vietnam;

the plans and procedures, both on the part of the Republic of South Vietnam and the United States Government for the November 1971 elections in the Republic of South Vietnam, including but not limited to analyses of the United States involvement, covert or not, in said elections.

Mr. F. Edward Hébert, of Louisiana, raised a point of order:

Mr. Speaker, the resolution calls for opinions and under the rule the resolution of inquiry must seek facts, not opinions. The resolution obviously requires an opinion when is asks for "the nature and capacity of the Government of the Republic of Vietnam." It also asks for opinion when it seeks analyses of the past and present military capabilities of the Republic of Vietnam. It clearly asks for opinion when it seeks "the depth of popular support," of the South Vietnamese Government.

Any resolution asking for a determination of "capacity" and asking for "analyses" of past and present military capabilities asks for opinions, and thus destroys the privileged nature of the resolution. I refer to volume 3, Cannon's Precedents, section 1873.

And finally, Mr. Speaker, there can be no question that a resolution which asks for the "rationale" for U.S. involvement in South Vietnam most assuredly seeks an opinion. Webster's Dictionary defines the word rationale as:

> An explanation of controlling principles of opinion, belief, practice or phenomena.

I make the further point of order, Mr. Speaker, that the resolution is not confined to heads of departments or the President but also includes the head of an agency and, therefore, the resolution is not privileged.

Mr. Speaker, I press the point of order.

THE SPEAKER:(18) The Chair is prepared to rule. . . .

It has been consistently held that to retain the privilege under the rule, resolutions of inquiry must call for facts rather than opinions—Cannon's precedents, volume VI page 413 and pages

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18. Carl Albert (Okla.).

418 to 432. Speaker Longworth, on February 11, 1926, held that a resolution inquiring for such facts as would inevitably require the statement of an opinion to answer such inquiry was not privileged—Record, page 3805.

Among other requests, House Resolution 491 calls for the furnishing of one, the "rationale" for U.S. involvement in South Vietnam since the completion of the study; two, the nature and "capacity" of the Government of the Republic of Vietnam, including "analyses" of their military "capabilities"; their capacity for self-sufficiency which would include analyses of the Government's political base, the scope of malfunction and corruption, the depth of popular support; and three, analyses of U.S. involvement in 1971 elections in South Vietnam.

In at least these particulars, executive officials are called upon—not for facts—but to furnish conclusions, which must be, essentially, statements of opinion.

The Chair therefore holds that House Resolution 491 is not a privileged resolution within the meaning of clause 5, rule XXII, and that the motion to discharge the Committee on Armed Services from its further consideration is not in order.

Reporting Resolutions of Inquiry

§ 8.3 Resolutions of inquiry must be reported back to the House by committee within the time period specified in the rule (Rule XXII clause 5), and if the resolution is not reported by the committee within the time limit, it may be called up in the House as a matter of privilege.

Parliamentarian's Note: From the inception of the rule in 1879, the time period for committee action was set at seven legislative days. In the 98th Congress, the period was set at 14 days.

On Feb. 9, 1950,(1) the Committee on Foreign Affairs reported unfavorably a resolution of inquiry (H. Res. 452) requesting certain information from the President regarding American foreign policy in the Far East. The committee had received responses to the resolution from the Department of State which it determined sufficient for purposes of the resolution. The Chairman of the committee, John Kee, of West Virginia, moved that the resolution be laid on the table.

The replies of the Department of State were to be printed in the committee report accompanying the resolution, but the report had not yet been printed at the time the resolution was being considered in the House. Mr. John Phillips, of California, raised a question pending the motion to lay on the table as to why the committee report was not available:

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1. 96 Cong. Rec. 1755, 81st Cong. 2d Sess.

That is a proper question. When are the replies going to be printed? Why were they not printed before the resolution was brought up and, as the gentleman from Illinois said, why were they not printed before the discussion of the Korea-Formosa aid?

Mr. Kee: Under the rule, we have to report these resolutions to the House, with the action of the committee on them, within 7 days. It took quite some time for us to get the answers back from the Department. We reported them at the earliest possible time. They would have been reported on yesterday had that day not been Calendar Wednesday.

Mr. Phillips of California: That does not reply to my question, or, rather, it is a reply, but it is not, perhaps, a satisfactory reply because the committee did not have to bring up this resolution until after they were printed.

The Speaker:(2) A parliamentary question is involved there with which the gentleman is perhaps not familiar.

Mr. Phillips of California: Would the Speaker care to enlighten me on the parliamentary question?

The Speaker: It is that if the committee does not report the resolution within 7 days, the gentleman from Connecticut may call it up.

Mr. Phillips of California: Is the Speaker saying that the report had to be acted upon in 7 days?

The Speaker: By the committee or by the House. If the committee does not report it within seven legislative days, the gentleman from Connecticut can call it up. The committee has considered it, so the gentleman from West Virginia has said. The committee has the answers. It considered them, and it took action. The gentleman has now reported this resolution unfavorably and is going to move to lay it on the table. That is the usual course. It is done many times every year.(3)

Extension of Reporting Date

§ 8.4 The House has by unanimous consent extended the time in which a resolution of inquiry must be reported to the House.

On Feb. 11, 1952,(4) Mr. John W. McCormack, of Massachusetts, asked unanimous consent that notwithstanding the provisions of Rule XXII clause 5, requiring a report within one week on a resolution of inquiry, the Committee on Foreign Affairs may have until Wednesday, Feb. 20, 1952, to file a report on House Resolution 514.

There was no objection.

Privileged Status

§ 8.5 Parliamentarian's Note: A resolution of inquiry reported from a committee is called up as a privileged matter and is debatable under the hour rule.

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2. Sam Rayburn (Tex.).

3. See §§ 8.12–8.14, infra, regarding the applicability of Rule XI clause 27(d)(4) (the three-day availability rule, which is found in Rule XI clause 2(l)(6) § 715 in the 1981 *House Rules and Manual*) to committee reports on resolutions of inquiry.

4. 98 Cong. Rec. 960, 82d Cong. 2d Sess.

On Sept. 16, 1965,(5) Mr. James H. Morrison, of Louisiana, offered a privileged resolution (H. Res. 574) reported from the Committee on Post Office and Civil Service directing the Postmaster General to furnish the House of Representatives with the names of all persons employed by the Post Office Department as temporary employees at any time during the period beginning on May 23, 1965, and ending on Sept. 6, 1965. Mr. Morrison asked for the immediate consideration of the resolution, and the Chair recognized him for one hour.

The House subsequently agreed to a motion offered by Mr. Morrison to lay this resolution on the table.(6)

Calendars

§ 8.6 Resolutions of inquiry, when reported from committee, may be referred to the appropriate calendar rather than be considered immediately.

On July 1, 1971,(7) four resolutions of inquiry (H. Res. 492, 493, 494, and 495) directing the Secretary of State to furnish the House with information regarding American activity in Southeast Asia were reported adversely from the Committee on Foreign Affairs and referred to the House Calendar and ordered to be printed.(8)

§ 8.7 Consideration of a resolution of inquiry does not take precedence over the call of the Private Calendar.

On Aug. 3, 1971,(9) F. Edward Hébert, of Louisiana, Chairman of the Committee on Armed Services, raised the following parliamentary inquiry shortly after the convening of the House on that day:

> It is my intention to send to the desk a privileged resolution, and I intend to make a motion to table the resolution,

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5. 111 Cong. Rec. 24030, 89th Cong. 1st Sess.
6. *Id.* at p. 24033.
7. 117 Cong. Rec. 23211, 92d Cong. 1st Sess.
8. *Parliamentarian's Note:* Rule XXII clause 5 provides that resolutions of inquiry shall be reported to the House within one week after presentation. If the committee does not report within that time, a motion to discharge the committee from further consideration of the resolution becomes privileged. Once the committee reports, however, the committee chairman is recognized over all other members to call up the resolution even though the committee has reported adversely in order to prevent a motion to discharge.
9. 117 Cong. Rec. 29060, 92d Cong. 1st Sess.

which has an adverse report from the Committee on Armed Services. The parliamentary inquiry that I desire to make is, am I permitted, after sending the privileged resolution to the desk for consideration, to allow its introducer to speak without losing my privilege to move immediately to table?

THE SPEAKER:(10) The gentleman will be recognized on the resolution. The gentleman will be privileged to yield.

MR. HÉBERT: I shall be able to yield without losing my right?

THE SPEAKER. The gentleman can yield for debate purposes.

MR. HÉBERT: At any time after I yield I can move to table?

THE SPEAKER: The gentleman is correct.

MR. HÉBERT: Then, Mr. Speaker, I shall send to the desk a privileged resolution and ask for its immediate consideration.

THE SPEAKER: Will the gentleman withhold that request inasmuch as the Private Calendar must be called ahead of legislative business?

MR. HÉBERT: Certainly, sir.

§ 8.8 A motion to lay on the table a resolution of inquiry is not debatable, and if such motion, when offered by the Member in charge, is decided adversely, the right to prior recognition passes to the Member leading the opposition to the motion.

On Feb. 20, 1952,(11) Mr. James P. Richards, of South Carolina, by direction of the Committee on Foreign Affairs, called up a privileged resolution (H. Res. 514) directing the Secretary of State to transmit to the House information relating to any agreements made by the President of the United States and the Prime Minister of Great Britain during their recent conversations. Mr. Richards then moved that the resolution be laid on the table.

Mr. Charles A. Halleck, of Indiana, raised a parliamentary inquiry:

> Mr. Speaker, this is a matter of very considerable importance. Does the making of this motion at this time preclude all debate, or may we expect that the chairman of the Committee on Foreign Affairs will yield time to those who may want to discuss this matter?
>
> THE SPEAKER:(12) The motion to lay on the table is not debatable. The gentleman from South Carolina cannot yield time after he has made a motion to lay on the table.

The motion to lay on the table was defeated.

Mr. John M. Vorys, of Ohio, having voted against the motion to lay on the table on a yea and nay vote, then asked recognition to speak in opposition. The Chair recognized him for one hour. Mr. Richards then raised a parliamentary inquiry:

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10. Carl Albert (Okla.).
11. 98 CONG. REC. 1205-16, 82d Cong. 2d Sess.
12. Sam Rayburn (Tex.).

Would the Speaker explain the parliamentary situation as to who is in charge of the time?

THE SPEAKER: The gentleman from Ohio is in charge of the time, the gentleman being with the majority in this instance, and on that side of the issue which received the most votes. The gentleman from Ohio is recognized.

Application of 40-minute Rule for Debate

§ 8.9 When a motion to discharge a committee from further consideration of a resolution of inquiry has been agreed to and the previous question has been ordered on the resolution without intervening debate, the 40-minute rule may be invoked, allotting 20 minutes each to those supporting and opposing the resolution.

On Aug. 2, 1971,(13) the House voted to discharge the Committee on Education and Labor from further consideration of a resolution of inquiry (H. Res. 539) directing the Secretary of Health, Education, and Welfare to provide the House with documents listing the public school systems in the United States that receive federal money and that would be engaged in busing to achieve racial balance during the school year 1971–72.

Upon the adoption of the motion to discharge, Mr. James M. Collins, of Texas, moved the previous question on the resolution, and the previous question was ordered. Mr. Thomas P. O'Neill, Jr., of Massachusetts, then raised a parliamentary inquiry:

Mr. Speaker, a parlimentary inquiry: In view of the fact that there was no debate on this, is a Member entitled to 20 minutes if he asks for time?

THE SPEAKER:(14) He is.

MR. O'NEILL: Mr. Speaker, I am asking for the 20 minutes. I have some questions I would like to ask on this and have the chairman of the Committee on Education and Labor explain it.

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, has not the previous question been moved and accepted?

THE SPEAKER: Yes, it has.

MR. O'NEILL: Mr. Speaker, I was on my feet seeking recognition.

MR. HALL: Regular order, Mr. Speaker.

THE SPEAKER: Inasmuch as there has been no debate on the resolution, the 40-minute rule applies, 20 minutes to each side. The gentleman from Texas is entitled to 20 minutes and the gentleman from Massachusetts is entitled to 20 minutes.

Publication of Answers to Inquiries

§ 8.10 When a resolution of inquiry is referred to a commit-

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13. 117 CONG. REC. 28863, 28864, 92d Cong. 1st Sess.

14. Carl Albert (Okla.).

tee, the committee may proceed immediately to direct the inquiries contained therein to the President or to the head of the executive agency named in the resolution, and when the committee receives a reply that satisfies the terms of the resolution, it may report the resolution unfavorably to the House and publish the unclassified responses obtained according to the terms of the resolution in the committee report accompanying the resolution and permit Members access to classified responses in possession of the committee.

On Feb. 9, 1950,(15) John Kee, of West Virginia, Chairman of the Committee on Foreign Affairs, reported from the committee and was granted immediate consideration of a privileged resolution of inquiry (H. Res. 452) requesting of the President, "if not incompatible with the public interest," information on American foreign policy in the Far East.

Mr. Kee made the following remarks regarding the resolution:

> Mr. Speaker, when this resolution was referred to the Committee on Foreign Affairs we immediately put it into proper channels in order that the various inquiries made in the resolution might be answered. We have received through the Department of State a full and complete answer to all the questions in the resolution. These answers will all be published in the report which the committee has brought in with the resolution, with the exception of two supplemental answers which it is deemed to be incompatible with the public interest to publish. But the two supplemental answers will be kept on file with the committee and be available for the information of members of the committee.
>
> Accompanying the resolution is an adverse report by the committee.
>
> Mr. Speaker, I now yield to the gentleman from Connecticut [Mr. Lodge], a member of our committee and the author of the resolution, 5 minutes in which he desires to make a statement.

Mr. John Davis Lodge, of Connecticut, then proceeded to summarize his recollections of the contents of the response to the resolution received by the committee from the Department of State.

At the conclusion of Mr. Lodge's remarks, Mr. Kee made the following statement and motion:

> Mr. Speaker, a few words only in reply to the gentleman from Connecticut. The resolution together with the reply of the Department of State, was submitted to the committee, read to the committee, was passed upon by the committee, deemed satisfactory, and the committee reported out the resolution adversely.
>
> I therefore move that the resolution be laid on the table.

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15. 96 Cong. Rec. 1753–55, 81st Cong. 2d Sess.

The motion was agreed to.

Referral of Executive Responses to Committee

§ 8.11 Communications from heads of executive departments in reply to resolutions of inquiry adopted in the House are laid before the House, and referred to the committee having jurisdiction.

On Mar. 5, 1952,[16] the Speaker[17] laid before the House the following communication from the Secretary of State in response to a resolution of inquiry (H. Res. 514) adopted by the House directing the Secretary of State to transmit to the House information relating to any agreement made by the President of the United States and the Prime Minister of Great Britain during their recent conversations:

> DEPARTMENT OF STATE,
> *Washington, D.C., March 4, 1952.*
> The Honorable SAM RAYBURN,
> *Speaker of the House of Representatives.*
>
> MY DEAR MR. SPEAKER: I have been directed by the President to acknowledge receipt of House Resolution 514, and to call attention to his statement of February 20, when, at his press conference, he responded to the question "Have any commitments been made to Great Britain on sending troops anywhere?" by a categorical "No."
>
> Sincerely yours,
> DEAN ACHESON.

The letter was read and referred to the Committee on Foreign Affairs and ordered to be printed.[18]

Discharge by Committee

§ 8.12 Where a resolution of inquiry had been pending before a committee for more than seven legislative days and that committee had then ordered the resolution adversely reported but had not filed a written report thereon, the committee was "discharged" from consideration of the resolution upon its

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[16] 98 CONG. REC. 1892, 82d Cong. 2d Sess.

[17] Sam Rayburn (Tex.).

[18] For other examples, (1) report from Department of State on effect on domestic fisheries of increased imports in response to H. Res. 147, referred to the Committee on Merchant Marine and Fisheries, 95 CONG. REC. 6372, 81st Cong. 1st Sess., Mar. 17, 1949; (2) report from the Department of the Interior on national energy supplies and suggested government conservation programs in response to H. Res. 385, referred to the Committee on Public Lands, 94 CONG. REC. 5163, 80th Cong. 2d Sess., Apr. 30, 1948; and (3) report from the Department of Commerce on total U.S. exports in reponse to H. Res. 366, referred to the Committee on Interstate and Foreign Commerce, 94 CONG. REC. 39, 80th Cong. 2d Sess., Jan. 8, 1948.

presentation to the House as privileged when no point of order was raised.

On Aug. 3, 1971,(19) F. Edward Hébert, of Louisiana, Chairman of the Committee on Armed Services sent to the desk from that committee a resolution of inquiry (H. Res. 557) directing the Secretary of Defense to furnish to the House ". . . any documents regarding all forms of United States military aid extended to the so-called Forward-Defense . . ." nations. No written report was filed with the resolution. Mr. Hébert's subsequent motion to table the resolution was agreed to.

Parliamentarian's Note: The Journal (H. Jour. 960 [1971]) correctly indicates the discharge of the Committee on Armed Services from consideration of House Resolution 557, there being no written report thereon. The provisions of Rule XI clause 2(l)(6), *House Rules and Manual* § 715 (1981) requiring the availability of committee reports for three calendar days are applicable to *reported* resolutions of inquiry. It is apparent, since this resolution was not technically reported, that a committee can maintain control over a resolution of inquiry after seven legislative days, even though it does not meet to consider the resolution, by its chairman offering a privileged motion to discharge and then, if the motion is successful, moving to lay the resolution on the table. This procedure also avoids the three-day requirement which is likewise applicable only to reported resolutions.

Time for Consideration of Report

§ 8.13 Parliamentarian's Note: A resolution of inquiry reported by a committee would ordinarily be subject to the provisions of the rule that a resolution is not privileged until the report has been available for three calendar days; when no point of order is raised, however, the House may proceed to consider such a resolution on the day reported.

On June 30, 1971,(20) F. Edward Hébert, of Louisiana, Chairman of the Committee on Armed Services, reported from the committee and called up as privileged a resolution of inquiry (H. Res. 489) directing the President to present to the House a copy of the report entitled "United States-Vietnam Relationships, 1945–1967" prepared by the Vietnam Task Force, office of the Secretary of Defense.

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19. 117 Cong. Rec. 29060, 29063, 92d Cong. 1st Sess.

20. 117 Cong. Rec. 23030, 92d Cong. 1st Sess.

Mr. Hébert immediately moved to lay the resolution on the table, and the motion was agreed to without objection being made that consideration of the resolution was not privileged for failure to comply with Rule XI clause 27(d)(4) (Rule XI clause 2(l)(6) § 715 in the 1981 *House Rules and Manual*).

Consideration by Unanimous Consent

§ 8.14 The Chairman of the Committee on Armed Services reported adversely a privileged resolution of inquiry, then obtained unanimous consent for its immediate consideration [thereby waiving the three-day availability requirement for committee reports under Rule XI clause 2(l)(6), House Rules and Manual § 715 (1981)] and then moved to lay the resolution on the table.

On May 9, 1973,(21) F. Edward Hébert, of Louisiana, Chairman of the Committee on Armed Services, reported adversely from the committee a privileged resolution of inquiry (H. Res. 379) directing the Secretary of Defense to supply the House with information regarding American military activity in Laos. Mr. Hébert asked and was granted unanimous consent for the immediate consideration of the resolution.

Mr. Hébert proceeded to outline the information received by the committee in response to the resolution. He then moved to lay the resolution on the table, and the motion was agreed to.

Inspection of Reports

§ 8.15 Inspection of reports from governmental departments submitted in connection with a resolution of inquiry was formerly within the discretion of the committee having possession. Currently, all Members are given access to committee files.

On Feb. 7, 1939,(1) Mr. Sol Bloom, of New York, called up as a privileged matter a resolution of inquiry (H. Res. 78) reported by the Committee on Foreign Affairs requesting information of the State Department on Mexican relations with the recommendation that it do not pass since "Such information available to the Department of State as is consistent with the public interest has been furnished your committee and is on file."

Mr. Hamilton Fish, Jr., of New York, raised a parliamentary inquiry as to whether the information supplied by the Secretary of State was open to inspection by all Members of Congress. The Speaker[2] responded:

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(21) 119 Cong. Rec. 14990-94, 93d Cong. 1st Sess.; H. Jour. 657 (1973).

(1) 84 Cong. Rec. 1181, 1182, 76th Cong. 1st Sess.

> . . . [T]he Chair states that disposition of the report, what should be done with it, whether it should be thrown open to all Members of Congress, is a matter within the discretion of the Foreign Affairs Committee.

Parliamentarian's Note: Under Rule XI clause 2(e)(2), *House Rules and Manual* § 706c (1981), all Members are given access to committee files, with specified exceptions relating to the Committee on Standards of Official Conduct.

§ 9. Titles and Preambles

Purpose of Title

§ 9.1 Titles in legislation are for purposes of identification, and do not affect the obvious meaning of a statute.

On Dec. 20, 1941,[3] during consideration of S. 2082, the following exchange took place:

> Mr. [Sam] Hobbs [of Alabama]: Mr. Speaker, I should like to invoke the ruling of the Chair on that point. I may say, Mr. Speaker, that this bill was identical in the House and the Senate versions, but in the House committee an amendment was made in the body of the bill to include other officers than originally were named in the House bill, namely, the members of alien-enemy hearing boards. The House committee conceived it to be wise to amend the title to show that the amendment had been put in the bill, but the Senate, in passing the bill, although it adopted the House amendment, did not amend the title.
>
> Mr. [Earl C.] Michener [of Michigan]: Mr. Speaker, a point of order.
>
> The Speaker:[4] The gentleman will state it.
>
> Mr. Michener: The gentleman from Alabama has not submitted a parliamentary inquiry. He has asked the Chair for a legal opinion on what the gentleman himself admits is debatable. Under the rules of the House, the Speaker of the House is not required to render legal opinions, at least without notice.
>
> Mr. Hobbs: I am not contending that the Speaker is required to do so. I am asking as a matter of the grace and indulgence of the Chair that he do so, and advise us if the Senate version be adopted, the limited reference in the title would be sufficient to carry the full bill as amended.
>
> The Speaker: The Chair thinks that the title of the bill is identification more than anything else. Mr. Justice Brewer in the case of *Patterson* v. *Bank Eudora* (190 U.S. 169) held—
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>> That the title is no part of the statute and cannot be used to set at naught its obvious meaning.

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[2] William B. Bankhead (Ala.).

[3] 87 Cong. Rec. 10079, 77th Cong. 1st Sess.

[4] Sam Rayburn (Tex.).

Titles as Related to Germaneness

§ 9.2 The germaneness of an amendment to a bill is not determined by the title of the bill; it is the body of the bill that is controlling.

On Aug. 2, 1949,(5) during consideration in the Committee of the Whole of a bill (H.R. 29) to provide price supports for tung nuts, a committee amendment was reported applying the provisions of the act to honey. Mr. Wayne L. Hays, of Ohio, raised a point of order:

> Mr. Chairman, since the committee amendment has no greater standing than any other amendment, the title of this bill is to amend the Agricultural Adjustment Act of 1938, as amended, to provide parity for tung nuts and for other purposes. I make the point of order that the inclusion of honey is not related to the bill and is, therefore, not in order.
>
> MR. [WALTER K.] GRANGER [of Utah]: Mr. Chairman, will the gentleman yield?
>
> MR. HAYS of Ohio: I yield to the gentleman from Utah.
>
> MR. GRANGER: I trust the gentleman will not press his point of order. We are willing to concede the point would apply, but what we will have to do is take out the part of the bill that the gentleman I am sure is interested in. . . .
>
> THE CHAIRMAN:(6) The Chair is ready to rule. The title of the bill does not control. It is the body of the bill that controls. When an individual proposition is added to another individual proposition by amendment, even though they are in the same class, they are not germane. The Chair sustains the point of order.

Amendment of Title

§ 9.3 Amendments to the title of a bill or joint resolution may be considered after its passage.

On Jan. 30, 1962,(7) several committee amendments, including one to the title of a bill (H.R. 4879), were offered en bloc. The Chairman of the Committee of the Whole reminded the proponent of the amendments that title amendments are properly considered in the House following passage.

§ 9.4 Amendment to titles of bills are properly presented after the bill is passed and are not debatable.

On Dec. 11, 1947,(8) during consideration in the House of a foreign aid bill (H.R. 4604) the following exchange took place:

> MR. [CHARLES J.] KERSTEN of Wisconsin: Mr. Speaker, I have an amend-

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5. 95 CONG. REC. 10639, 10640, 81st Cong. 1st Sess.

6. John McSweeney (Ohio).

7. 108 CONG. REC. 1183, 87th Cong. 2d Sess.

8. 93 CONG. REC. 11307, 80th Cong. 1st Sess.

ment to change the title of the bill, which I understand is proper.

The Speaker:[9] That will come after the passage of the bill.

Mr. Kersten of Wisconsin: I should like to inform the membership that this is an important amendment and I should like to speak on it.

The Speaker: It is not debatable.

Parliamentarian's Note: Rule XIX, "Of Amendments", specifies that "Amendments to the title of a bill or resolution shall not be in order until after its passage, and shall be decided without debate." *House Rules and Manual* § 822 (1981).

Preambles Generally

§ 9.5 Where no action is taken to strike out the preamble of the bill and the bill is passed, the preamble remains as a part of the bill.

On Mar. 22, 1935,[10] during consideration of a bill (H.R. 3896) providing for payment of world war adjusted service certificates, Mr. Thomas L. Blanton, of Texas, raised a point of order:

> Mr. Speaker, I wish to make a point of order with respect to the present parliamentary situation of one part of the bill, and in connection therewith I ask permission of the Chair to make a parliamentary inquiry.

The Speaker:[11] The gentleman will state it.

Mr. Blanton: On yesterday, after the first section of the Vinson bill was read, as shown on page 4216, the gentleman from Texas [Mr. Patman] moved to strike out the first section and to insert his own bill as a substitute therefor, giving the usual notice that, in case his amendment carried, he would move to strike out the remaining sections of the Vinson bill.

Mr. [Fred M.] Vinson of Kentucky: Mr. Speaker, a point of order.

Mr. Blanton: I am making the point of order now.

Mr. Vinson of Kentucky: Mr. Speaker, I am making a point of order to the gentleman's point of order. My point of order is that the bill to which the gentleman's motion applies has been concluded and is history.

Mr. Blanton: In connection with my point of order, I am asking the Chair a parliamentary inquiry.

The Speaker: The Chair will hear the point of order of the gentleman from Texas.

Mr. Blanton: Mr. Speaker, the Chair will find on this page 4216 of the Record for yesterday that the gentleman from Texas [Mr. Patman] moved to strike out the first section of the Vinson bill and offered his bill as an amendment in the way of a substitute, giving proper notice that if his amendment were adopted he would thereafter move to strike out all the remaining paragraphs of the Vinson bill. Nothing was said about striking out the preamble of the bill which preceded the first section, and it was not stricken out, although the gentleman from Texas [Mr. Patman] objected to the reading of the preamble.

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[9] Joseph W. Martin, Jr. (Mass.).

[10] 79 Cong. Rec. 4314, 4315, 74th Cong. 1st Sess.

[11] Joseph W. Byrns (Tenn.).

The procedure I have outlined was followed. After the substitute of the gentleman from Texas [Mr. Patman], was voted upon and adopted by teller vote in the Committee of the Whole House on the state of the Union, as shown on page 4231 of the Record, the gentleman from Texas [Mr. Patman], asked unanimous consent that the remaining sections of the Vinson bill that [followed] section 1 be stricken out, and that request was granted, and the remaining sections of the Vinson bill were stricken out, but the preamble, which preceded the enacting clause, was left undisturbed, and remained in the bill just preceding the enacting clause. No action whatever was taken by the House, or by the Committee of the Whole House on the state of the Union with respect to the preamble except, as before stated, the gentleman from Texas objected to its being read, as a preamble is never read. And, of course, unanimous consent is usually requested for the preamble to be stricken out, but as to this bill no such request was made.

The parliamentary inquiry I desire to make is this: although it is not usual to leave preambles in a bill that is finally passed, yet the preamble to this bill is so apropos and was so well written in the bill introduced by our friend, the gentleman from Kentucky [Mr. Vinson], and it so well applies to the Patman bill that it should stay in, and not be stricken out, and I wish to ask the Chair whether or not the preamble could be stricken out except by unanimous consent, or by a motion passed by the House.

The Speaker: The Chair will state to the gentleman from Texas that the only way it can be done is by action of the House. No action was taken by the House with respect to striking out the preamble, so it still remains.

Preambles in Committee of the Whole

§ 9.6 In the Committee of the Whole the body of a concurrent resolution is first considered and after the resolving clauses have been read for amendment, the preamble is considered and perfected.

On Oct. 5, 1962,(12) the Committee of the Whole, pursuant to a special rule (H. Res. 827), undertook consideration of a concurrent resolution (H. Con. Res. 570) expressing the sense of the Congress with respect to certain problems that had arisen in Berlin, Germany. The Committee first considered amendments to the body of the resolution before considering amendments to the preamble thereof.

§ 9.7 Amendments to the preamble of a concurrent resolution are considered and voted on in the Committee of the Whole after amendments to the body of the resolution, and such amendments are voted on in the

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12. 108 Cong. Rec. 22637, 22638, 87th Cong. 2d Sess.

House after the resolution has been adopted.

On Oct. 30, 1945,(13) a concurrent resolution (H. Con. Res. 80) expressing the sense of the Congress regarding the size of the post-war Navy was considered in the Committee of the Whole. After the reading of the resolution the Clerk read the amendments to the resolution proposed by the committee that reported it. Mr. W. Sterling Cole, of New York, raised a parliamentary inquiry:

Mr. Chairman, I wonder if we are going to consider the amendments to the preamble first?

The Chairman:(14) The amendments to the preamble are considered after amendments to the body of the resolution.

The following committee amendment to the preamble was considered:

In the preamble, page 1, fourth paragraph, strike out "giving due consideration to the security of the United States and its Territories and insular possessions, the protection of our commerce, and the necessity for cooperating with other world powers in the maintenance of peace; and" and insert in lieu thereof "in order to insure our national integrity, support our national policies, guard the continental United States and our overseas possessions, give protection to our commerce and citizens abroad, and to cooperate with other world powers in the maintenance of peace; and.". . .

The Chairman: The question is on the committee amendment to the preamble.

The amendment was agreed to.

After consideration of the resolution the Committee rose and reported it back to the House:

The Speaker:(15) Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gross.

The amendments were agreed to.

The Speaker: The question is on the adoption of the resolution.

Mr. [Carl] Vinson [of Georgia]: Mr. Speaker, on that I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 347, nays 0, answered "present" 1, not voting 83, as follows: . . .

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The Speaker: The question is on the amendment to the preamble.

The amendment to the preamble was agreed to.

Preambles in the House

§ 9.8 In response to a parliamentary inquiry, the Speaker stated that an amendment to the preamble of a resolution is consid-

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13. 91 Cong. Rec. 10202, 10203, 10205, 10206, 79th Cong. 1st Sess.
14. Butler B. Hare (S.C.).
15. Sam Rayburn (Tex.).

ered in the House after the adoption of the resolution.

On June 8, 1970,(16) a resolution (H. Res. 976) authorizing a select committee to study recent developments in Southeast Asia was being considered in the House. Mr. Hugh L. Carey, of New York, raised a parliamentary inquiry after certain committee amendments had been agreed to:

> Mr. Speaker, at what point did the Speaker put the committee amendment which appears on page 1 to strike out the preamble?
>
> THE SPEAKER:(17) That question will come after the adoption of the resolution.

§ 9.9 The preamble of the simple resolution is amendable in the House following the adoption of the resolution unless the previous question is ordered thereon. The previous question is ordered separately on the preamble of a resolution after adoption of the resolution.

On Mar. 1, 1967,(18) after the adoption of a resolution (H. Res. 278) relating to the right of a Representative-elect Adam C. Powell, of New York, to be sworn, Mr. Thomas B. Curtis, of Missouri, moved the previous question on the adoption of the preamble of the resolution. Mr. Phillip Burton, of California, raised a point of order:

> The gentleman from Missouri is urging a motion that duplicates an action already taken by the House. The House already has had a motion to close debate on the preamble and on the resolution as amended.
>
> We have already had that vote. I make the point of order that the gentlemen's request and/or motion is out of order. I think the record of the proceedings of the House will indicate that the point being advocated reflects accurately the proceedings as they have transpired.
>
> THE SPEAKER:(1) The Chair will state that the previous question was ordered on the amendment and the resolution but not on the preamble.

§ 9.10 A motion to strike all after the resolving clause of a concurrent resolution does not affect the preamble thereof; and a motion to strike out the preamble is properly offered after the resolution has been agreed to.

On Feb. 21, 1966,(2) the House considered a concurrent resolution

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16. 116 CONG. REC. 18656, 18658, 91st Cong. 2d Sess.
17. John W. McCormack (Mass.).
18. 113 CONG. REC. 5038, 90th Cong. 1st Sess.

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1. John W. McCormack (Mass.).
2. 112 CONG. REC. 3473, 89th Cong. 2d Sess.

(H. Con. Res. 552) recognizing the 50th anniversary of the chartering of the Boy Scouts of America. Mr. Arch A. Moore, Jr., of West Virginia, asked and received unanimous consent to consider a similar Senate resolution (S. Con. Res. 68) in lieu of the House concurrent resolution. Mr. Moore then offered an amendment to the Senate resolution striking out all after the resolving clause and inserting the provisions of House Concurrent Resolution 552:

The Speaker Pro Tempore:(3) Is the purpose of the gentleman from West Virginia to strike out the preamble?

Mr. Moore: My amendment would strike out the language of the Senate concurrent resolution and substitute in lieu thereof the language of the concurrent resolution just passed by the House.

The Speaker Pro Tempore: Would the amendment of the gentleman from West Virginia strike out the preamble or all after the enacting clause and substitute the language of the House concurrent resolution just passed?

Mr. Moore: It would strike out all after the enacting clause.

The Speaker Pro Tempore: That would not eliminate the preamble.

Mr. Moore: Then, Mr. Speaker, I move to strike the preamble.

The Senate concurrent resolution was agreed to and a motion to reconsider was laid on the table.

The Speaker Pro Tempore: The Clerk will report the amendment of the gentleman from West Virginia.

The Clerk read as follows:

> Mr. Moore moves to strike out the preamble.

The amendment was agreed to.

A similar House concurrent resolution was laid on the table.

Preamble of Joint Resolution

§ 9.11 The preamble of a joint resolution is properly amended after the engrossment and pending the third reading of the resolution.

On Apr. 2, 1962,(4) the House considered and agreed to a House joint resolution (H.J. Res. 628) along with a committee amendment to strike out the preamble.

The House Journal records that the joint resolution was ordered engrossed, that the preamble was amended or stricken out, and that the resolution was then ordered read the third time, was read the third time, and passed.(5)

§ 10. Petitions and Memorials

A petition is a plea to the Congress to take some action, or refrain from action, on a subject of

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3. Carl Albert (Okla.).

4. 108 Cong. Rec. 5516, 87th Cong. 2d Sess.

5. H. Jour. 231 (1962).

legislative concern. The term "memorial" is ordinarily used to describe a petition from a state legislature.(6)

Petitions and memorials, when brought to the attention of the House by a Member or the Speaker, are referred to the committees having appropriate jurisdiction. They are not legislative measures, but may provide the initiative for legislative action. Thus, they are not reported from committee and voted on in the House in the manner of bills and resolutions.(7)

Introduction by Request

§ 10.1 When a citizens' petition is introduced "by request" under Rule XXII, these words are entered on the Journal and printed in the Record following the name of the Member who introduces the petition.

On Apr. 13, 1961,(8) the following was recorded in the Record:

> Under clause 1 of rule XXII, petitions and papers were laid on the Clerks' desk and referred as follows:
>
> 118. By Mr. [Perkins] Bass of New Hampshire (by request): Petition of 67 faculty members of Dartmouth College seeking the elimination of the House Committee on Un-American Activities as a standing committee; to the Committee on Rules.

Presentation by Petitioners

§ 10.2 The Speaker declined to entertain a unanimous-consent request that certain petitioners be permitted to present a petition on the floor of the House.

On May 24, 1972,(9) the following proceedings took place:

> MRS. [BELLA] ABZUG [of New York]: Mr. Speaker, we have petitioning us today outstanding citizens of this country, social leaders, leaders of the arts, sciences, and professions. They have come here to petition us to act immediately to cut off funds for the war and end our military activity in Indochina. . . .
>
> Mr. Speaker, I renew my request in the form of asking unanimous consent that a representative of those citizens come in and have the opportunity to present a petition and that we hear what those people, who are the conscience of this country and who represent a majority of the American people, have to say. . . .

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(6) See *House Rules and Manual* §§ 389, 849 (1981).

(7) The introduction and reference of petitions and memorials is governed by Rule XXII clauses 1, 3, 4, *House Rules and Manual* §§ 849, 853, 854 (1981).

(8) 107 CONG. REC. 5900, 87th Cong. 1st Sess.

(9) 118 CONG. REC. 18679–81, 92d Cong. 2d Sess.

The Speaker:[10] The time of the gentlewoman from New York has expired.

The gentlewoman's request is not in order.

Parliamentarian's Note: Under Rule XXXII clause 1, the Speaker does not have the authority to entertain a request to waive the rule pertaining to the privilege of admission to the floor.

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[10] Carl Albert (Okla.).

B. GENERAL PROCEDURES ASSOCIATED WITH PASSAGE OF LEGISLATION

§ 11. Readings

The reading of a bill or joint resolution is an essential step leading to passage. It is read the first time by title (which requirement is now complied with upon introduction of the bill or joint resolution by printing the title in the Journal and Record), the second time in full, and the third time by title. The applicable rule, Rule XXI clause 1, was amended in 1965(11) to eliminate the right of any Member to demand the reading in full of the engrossed copy.

The second reading, which is a reading in full, may be dispensed with only by unanimous consent.(12) It may not be dispensed with by motion.(13) And when a bill is read in full for the first time the text of the bill as originally introduced is read. Proposed committee amendments are not reported at that time.(14)

The three readings referred to in Rule XXI clause 1 do not include the actual procedure for reading for amendment. Reading for amendment is actually yet another reading that, although not specifically provided for in that rule, is conducted pursuant to a practice of the House derived from an earlier version of the present Rule XXIII clause 5,(15) or pursuant to the terms of a special order or rule which may be adopted to govern the consideration of a particular bill.

Cross Reference

Reading bills for amendment and reading of amendments, Ch. 27, infra.

Reading in Full

§ 11.1 A motion to dispense with the full reading of a bill in the Committee of the Whole is not in order.

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11. H. Res. 8, 111 Cong. Rec. 21–25, 89th Cong. 1st Sess., Jan. 4, 1965.

12. See § 11.1, infra.

13. Compare 4 Hinds' Precedents § 4738 where Chairman Albert Hopkins (Ill.), ruled that a bill that had been read in full in the House may be again read in full on the demand of a Member in the Committee of the Whole ". . . unless its reading is dispensed with by the action of the Committee."

14. See 75 Cong. Rec. 8139, 72d Cong. 1st Sess., Apr. 13, 1932.

15. *House Rules and Manual* § 872 (1981).

On June 4, 1951,(16) the House resolved itself into the Committee of the Whole for the consideration of the District of Columbia Law Enforcement Act of 1951 (H.R. 4141). The Chairman(17) stated that without objection the first [full] reading of the bill would be dispensed with. Objection was heard from Mr. Herman P. Eberharter, of Pennsylvania, and the Chairman ordered the Clerk to read the bill.

During the reading of the bill a parliamentary inquiry was raised:

> Mr. [W. Sterling] Cole of New York (interrupting the reading of the bill): Mr. Chairman, a parliamentary inquiry.
>
> The Chairman: The gentleman will state it.
>
> Mr. Cole of New York: Mr. Chairman, is it possible under the rules of the Committee of the Whole to by motion dispense with the further reading of a bill?
>
> The Chairman: The Chair will say that it requires unanimous consent to suspend the further reading of the bill.
>
> Mr. Cole of New York: It is not possible to do that by motion?
>
> The Chairman: That motion is not privileged.(18)

Interruption by Point of No Quorum

§ 11.2 A point of no quorum may interrupt the reading of a resolution.

For example, on Mar. 1, 1967,(1) Mr. Porter Hardy, Jr., of Virginia, interrupted the reading of a House resolution (H. Res. 278) relating to the seating of Representative-elect Adam C. Powell, of New York, to make the point of order that a quorum was not present.

Noting that evidently a quorum was not present, the Speaker(2)

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16. 97 Cong. Rec. 6099-101, 82d Cong. 1st Sess.

17. Herbert C. Bonner (N.C.).

18. *Parliamentarian's Note:* In this instance the Committee of the Whole directed the reading in full of the bill on its first reading. The bill was read by title only on the next day when the Committee of the Whole reconvened to resume consideration of it. Although the procedure followed was somewhat unorthodox, it illustrates the point that any Member may demand a full reading of a bill before general debate thereon begins, provided the bill has not previously been read in full.

    The House can dispense with the first reading in Committee of the Whole by motion if the motion is made privileged, as when reported from the Committee on Rules. A special order reported by the Committee on Rules can also *waive* the first reading.

1. 113 Cong. Rec. 4997, 90th Cong. 1st Sess.

2. John W. McCormack (Mass.).

recognized a Member to move a call of the House.

Reading as Related to Motion to Recommit

§ 11.3 A motion to recommit is properly made in the House after the third reading of a bill.

On Aug. 13, 1959,(3) during consideration in the House of the Labor-Management Reporting and Disclosure Act of 1959 (H.R. 8342) the previous question was ordered on an amendment agreed to in the Committee of the Whole. Mr. Frank Thompson, Jr., of New Jersey, raised a parliamentary inquiry:

> Is it my understanding that the vote about to be taken is on whether or not the substitute will be accepted, and that it is not a vote on final passage?
>
> THE SPEAKER:(4) It will be a vote on the amendment adopted in the Committee of the Whole.
>
> MR. [THOMAS P.] O'NEILL [of Massachusetts]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. O'NEILL: Will a vote to recommit then be in order?
>
> THE SPEAKER: After the third reading.
>
> MR. O'NEILL: And then a vote would be in order on the final passage?
>
> THE SPEAKER: That is correct.
>
> MR. [JAMES] ROOSEVELT [of California]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. ROOSEVELT: If the amendment is defeated, what is then the parliamentary situation?
>
> THE SPEAKER: Then the question is on the engrossment and third reading of the so-called committee bill.

Parliamentarian's Note: The "so-called committee bill" would be the original text as introduced.

§ 11.4 A motion to recommit was held not to be in order before the engrossment and third reading of the bill.

On June 11, 1959,(5) after debate on the bill (H.R. 7246) to amend the Agricultural Act of 1949 the Speaker announced:

> The question is on the engrossment and third reading of the bill.
>
> The bill was ordered to be engrossed and read a third time. . . .
>
> MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER:(6) The gentleman will state it.
>
> MR. HALLECK: Mr. Speaker, would it be in order to vote on the motion to recommit at this time?
>
> THE SPEAKER: It would not be in order until after the reading of the engrossed copy. . . .

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3. 105 CONG. REC. 15859, 86th Cong. 1st Sess.
4. Sam Rayburn (Tex.).
5. 105 CONG. REC. 10561, 86th Cong. 1st Sess.
6. Sam Rayburn (Tex.).

MR. [HAROLD D.] COOLEY [of North Carolina]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. COOLEY: As I understand the situation, the gentleman from Oklahoma [Mr. Belcher] had submitted a motion to recommit. Why should we not vote on that this afternoon?

THE SPEAKER: It is not time to vote on it. We have got to have the engrossed copy of the bill here before the motion to recommit can be offered.

Parliamentarian's Note: This precedent reflects the earlier practice regarding the engrossed copy of a bill, which had to be available and was subject to a demand for full reading. Under the new rule, bills on their passage are read the first time by title and the second time in full, when, if the previous question is ordered, the Speaker states the question to be: Shall the bill be engrossed and read a third time? If the question is decided in the affirmative, the bill is read the third time by title and the question then put upon its passage. Rule XXI clause 1, *House Rules and Manual* (1981). (The provision permitting a Member to demand a third reading in full was eliminated from the rule in 1965.)

Reading in the Senate

§ 11.5 In the Senate a bill messaged from the House may not be read twice in the same legislative day without unanimous consent, but the Senate may adjourn for a brief period (thus creating a new legislative day) and then proceed to the second reading of the bill.

On Mar. 24, 1960,(7) there was received in the Senate the civil rights bill of 1960 (H.R. 8601) messaged from the House of Representatives. When the bill had been read the first time, Senator Lyndon B. Johnson, of Texas, asked unanimous consent that the bill be read the second time. Senator Richard B. Russell, of Georgia, objected. Senator Johnson then moved that the Senate adjourn for three minutes, and the motion was agreed to.

Thus, the Senate adjourned for three minutes from 1:32 p.m. to 1:35 p.m. of the same day, and upon reconvening the civil rights bill was read a second time and referred to committee.

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7. 106 CONG. REC. 6451, 6452, 6454, 6455, 86th Cong. 2d Sess.

Under Senate Rule XIV clause 2, every bill and joint resolution receives three readings prior to its passage, which readings must be on three different days, unless the Senate unanimously directs otherwise.

§ 11.6 In the Senate, by unanimous consent, a bill may be read the second time on the same day it is received by message from the House.

On Mar. 14, 1962,[8] the proceedings below were recorded in the Senate:

> MR. [EVERETT MCKINLEY] DIRKSEN [of Illinois]: Mr. President, I ask unanimous consent that H.R. 10079, which came over from the House and is now on the table——
>
> MR. [JOHN C.] STENNIS [of Mississippi]: A point of order, Mr. President. Is the Senate in the morning hour?
>
> MR. DIRKSEN: Yes, it is.
>
> I ask that the bill be advanced to a second reading and be permitted to lie on the desk.
>
> THE VICE PRESIDENT:[9] Is there objection to the request of the Senator from Illinois?
>
> There being no objection, the bill was ordered to a second reading, and was read the second time.
>
> THE VICE PRESIDENT: Without objection the bill will be printed, and will lie on the table.

§ 12. Engrossment

Engrossment is the process by which a bill or resolution or a House amendment to a Senate measure is printed on special paper by direction of the enrolling clerk under supervision of the Clerk of the House or the Secretary of the Senate. After House action, House bills and resolutions are engrossed on a distinctive blue paper, as are House amendments to measures received from the Senate. This blue paper indicates that it is the official copy of the measure as passed by the House.[10] Senate bills and Senate amendments to House bills are engrossed on white paper. The engrossed copies of the bill, when signed by the Clerk of the House (in the case of a bill originating in the House) or by the Secretary of the Senate (on a Senate bill), become the nucleus of the official papers which go from one house to the other during the various actions on a bill. A Senate bill cannot be acted on in the House, e.g., until the House is in possession of the signed copy of the engrossed Senate bill.

Star Prints

§ 12.1 The engrossed copy of a bill may be "star printed" (that is, reprinted with a star to indicate the reprinting) to rectify clerical errors; and an engrossed "star print" of a House

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[8] 108 CONG. REC. 4097, 87th Cong. 2d Sess.

[9] Lyndon B. Johnson (Tex.).

[10] *Procedure in the U.S. House of Representatives* (97th Cong.), Ch. 24 § 5.1.

bill, substituted for the original engrossed copy containing a clerical error when messaged to the Senate, is properly before that body.

On July 9, 1957,(11) Senator William F. Knowland, of California, moved that the Senate proceed to the consideration of the House bill 6127:

> Mr. President, on yesterday the Senator from Georgia [Mr. Russell] stated that the star-print bill which is now proposed to be taken up upon my motion is not the same bill which was heretofore read twice and ordered to be placed on the calendar. This colloquy appears on pages 10986-10987 of the Record of July 8, 1957. It was stated that the star print bill had not been read twice.
>
> I desire to submit a parliamentary inquiry, as to whether, if my motion prevails, the bill then before the Senate will be the engrossed bill, star print, and as to whether the validity of any proceedings the Senate may now or hereafter take on the star-print bill may be questioned.
>
> THE VICE PRESIDENT:(12) A study of the precedents indicates that the question as to the validity of a star print has not been previously raised in the Senate. . . .
>
> A star print, so called, of an engrossed bill, whether it is either a House or Senate bill, is simply a bill that has been reprinted for the purpose of correcting an error or errors, usually of a clerical or typographical nature, made by some person whose duty it was to see that such bill, when printed, was in conformity in all respects with and truly and accurately reflected the action of the particular House in its passage. It is designed to substitute for a bill in which an error has been discovered a reprinted bill correcting such error or errors and showing the exact form in which such bill was actually passed by the original House. The practice of star printing bills has been followed by both Houses of Congress, in a more or less routine manner, for a long period of time. The Parliamentarian has found instances going back almost 50 years ago. It is somewhat analogous to the method of correcting by a concurrent resolution errors discovered in an enrolled bill after it has passed through the legislative processes beyond the stage of amendment; indeed, in some cases, after an enrolled bill has been signed by the two presiding officers and presented to the President, it is recalled, the errors are corrected, and the bill again signed and presented to the President for his action thereon.
>
> An engrossed bill is attested, in the Senate by the Secretary, and in the House by the Clerk, and transmitted to the other body by message. If an error in such a bill is not discovered until after its receipt by the other House, the usual procedure is for the enrolling clerk of the first House to have a star print made correcting such error and it is delivered to the enrolling clerk of the second House, who delivers to the first House the original signed bill containing the error. In such a case, a star print is made by the enrolling clerk of

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11. 103 CONG. REC. 11089, 85th Cong. 1st Sess.
12. Richard M. Nixon (Calif.).

the second House of the bill on white paper showing the bill in its correct form, with the same action indicated thereon as appears on the original bill. All the original copies of the bill are withdrawn from the files and the star-print copies substituted therefor, whether the bill was referred to a committee or placed on the calendar.

The error in the engrossed bill H.R. 6127, the Civil Rights Act of 1957, was not discovered until after it had been transmitted by message to the Senate, read twice, and placed upon the calendar.

During the consideration of the bill in the House on June 17, 1957, as shown on pages 9378–9384 of the Congressional Record, Mr. Whitener, of North Carolina, offered an amendment embracing the language of the proviso shown in the original engrossed bill beginning on page 8 line 19, and extending down to and including line 9, page 9. A point of order was made and sustained by the Chairman, Mr. Forand, that it was not germane specifically to the section to which it was offered, but it was stated by the Chairman that it would be germane to the bill as a separate section. Mr. Whitener then obtained unanimous consent that he might offer it as an amendment in the form of a separate section, to be known as subsection (e) of section 131, and to be inserted immediately following line 13, on page 12. An amendment to the amendment was offered by Mr. Hoffman, of Michigan, which was ruled out on a point of order as not being germane to Mr. Whitener's amendment. Mr. Whitener, by unanimous consent, then made a slight modification of his amendment, and the amendment as modified was agreed to. By inadvertence, the amendment as adopted was inserted in the bill at the same point where it was originally offered instead of at the place where it was offered the second time.

When the error was discovered, the enrolling clerk of the House had a star print made of the engrossed bill, in which the language of the amendment was transposed from the erroneous place in the bill to the place specifically indicated by him when he offered the amendment the second time, which now appears on page 12, as lines 10 to 23, inclusive, of the Senate Calendar print of the bill.

It was simply a transposition of the language of the amendment to the correct and proper place, as indicated by the proceedings in the Congressional Record. No word was changed in this transposition. It was placed in the star printed bill in exactly the same language as proposed and adopted by the House.

The transposition necessitated a change in the pages and lines of the star print after the place in which the amendment was incorrectly inserted, and it was therefore necessary to have a star print made in the Senate of the original calendar print, in view of the fact that any amendment offered after page 8, line 19, would not correspond to the language in the star printed engrossed bill.

When this star print was delivered to the Secretary's Office of the Senate, following the custom, undeviated from, the original erroneous engrossed bill was returned to the enrolling clerk of the House, and a copy of the Senate Calendar print of the bill was sent to the Government Printing Office for a star print.

The proceedings in connection with the star printing of the bill in the Senate followed the usual routine procedure customary in the correction of errors in engrossed bills.

Mr. [Richard B.] Russell: Mr. President, a parliamentary inquiry.

The Vice President: The Senator will state it.

Mr. Russell: The Chair did not so state specifically, but I understood the distinguished Senator from California to propound a parliamentary inquiry as to the validity of this procedure. Did I correctly understand the Chair to rule that this remarkable procedure was valid under rule XIV?

The Vice President: The Chair did so rule.

House, Not Committee of the Whole, Controls Engrossment

§ 12.2 A request that the Clerk, in the engrossment of a bill, make corrections in section numbers and cross references in the bill, is properly made in the House, following passage of the bill and is not in order in the Committee of the Whole.

On Apr. 29, 1969,(13) during consideration in the Committee of the Whole on the bill (H.R. 4153) authorizing procurement of vessels and aircraft and construction of shore and offshore establishments for the Coast Guard, Mr. Frank T. Bow, of Ohio, offered an amendment. Mr. Hastings Keith, of Massachusetts, then raised a parliamentary inquiry:

> Mr. Chairman, if the amendment is adopted and I hope and trust it will be; would that not require the renumbering of the lines in which the earlier amendments have been incorporated into the existing legislation?
>
> The Chairman:(14) The gentleman may request that the Clerk be authorized to renumber accordingly.
>
> Mr. Keith: I would so request.
>
> The Chairman: The gentleman may make the request that the Clerk be authorized to renumber the sections accordingly after the Committee rises and we are in the House.

After the Committee of the Whole had arisen and reported back to the House and the Speaker(15) had announced the question as being the engrossment and third reading of the bill, Mr. Keith raised a parliamentary inquiry:

> Mr. Speaker, while we were in Committee on the Whole I raised a question, the answer to which indicated that I should ask permission that certain sections be renumbered.
>
> The Speaker: The Chair will state in response to the parliamentary inquiry that the gentleman's request will be in order and the gentleman will be recog-

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13. 115 Cong. Rec. 10753, 91st Cong. 1st Sess.

14. Jacob H. Gilbert (N.Y.).

15. John W. McCormack (Mass.).

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nized to make such a request after the bill is passed.(16)

The Clerk May be Directed by Resolution to Correct Engrossment

§ 12.3 The House agreed to a resolution, in the form shown below, authorizing and directing the Clerk of the House to make certain changes in the engrossment of a joint resolution.

On May 10, 1945,(17) the House, by unanimous consent, considered and agreed to the following resolution (H. Res. 254):

> *Resolved,* That the Clerk of the House in the engrossment of the joint resolution (H.J. Res. 60) proposing an amendment to the Constitution of the United States relative to the making of treaties, is authorized and directed, in the last sentence of section 1 of the proposed article of amendment to the Constitution, to insert after the word "against" the following: "advising and consenting to the", so that such sentence shall read as follows: "In all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against advising and consenting to the ratification of the treaty shall be entered on the Journal of each House respectively."

Senate Request for Return of Bill From House, Privileged in House

§ 12.4 The Speaker laid before the House a resolution of the Senate, in the form shown below, requesting the House to return to that body an engrossed bill together with accompanying papers.

On June 16 (legislative day June 14), 1938,(18) the following proceedings took place in the House:

> The Speaker:(19) The Chair desires to make an announcement with reference to a request sent to the House this morning by the Senate of the United States. The Clerk will report the order of the Senate of the United States.
>
> The Clerk read as follows:
>
> *Ordered,* That the Secretary be directed to request the House of Representatives to return to the Senate the engrossed bill (H.R. 7084) to provide that all cabs for hire in the District of Columbia be compelled to carry insurance for the protection of passengers, and for other purposes, together with all accompanying papers.
>
> The Speaker: The Chair thinks it is proper to state that as a matter of comity between the two branches, when a request of this character comes over from the other body to this body, it is the duty of the House to comply with such order and it is under the precedents a matter of privilege.

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(16) See also *Procedure in the U.S. House of Representatives* (97th Cong.), Ch. 24 §§ 5.4, 5.5.

(17) 91 Cong. Rec. 4434, 79th Cong. 1st Sess.

(18) 83 Cong. Rec. 9681, 75th Cong. 3d Sess.

(19) William B. Bankhead (Ala.).

Mr. [Thomas D.] O'Malley [of Wisconsin]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. O'Malley: What will be the status of the measure when it returns to the Senate?

The Speaker: The Chair cannot answer that question. We are simply returning the bill to the Senate.

Mr. O'Malley: It does not go to conference by reason of this order?

The Speaker: It does not. Without objection, the request of the Senate will be complied with.

There was no objection.

§ 12.5 The House, by unanimous consent, considered a resolution requesting the Senate to return a House bill and authorizing the Clerk to reengross the bill with a correction.

On Apr. 16, 1951,(20) the following House resolution (H. Res. 195) was before the House by unanimous consent:

Resolved, That the Senate be requested to return to the House the bill (H.R. 3587) making supplemental appropriations for the fiscal year ending June 30, 1951, and for other purposes, and that the Clerk be authorized to reengross the said bill with the following correction:

Page 11, line 11, strike out "$18,350,000" and insert in lieu thereof "$19,100,000."

Mr. [John] Taber [of New York]: Mr. Speaker, reserving the right to object, this is because the enrolling clerk made a mistake in indicating that the Heselton amendment was carried instead of being defeated on roll call; is that correct?

Mr. [Jamie L.] Whitten [of Mississippi]: That is correct. The engrossed copy showed the earlier action but failed to change back on final roll call.

A Concurrent Resolution is Used to Effect Change in Engrossment When Both Houses Have Acted

§ 12.6 The House, by unanimous consent, considered a concurrent resolution authorizing the Secretary of the Senate to reengross the amendments of the Senate to a House bill and make a correction in such reengrossment.

On June 27, 1951,(1) the concurrent resolution shown below was before the House.

INDEPENDENT OFFICES APPROPRIATION BILL, 1952

Mr. [Albert] Thomas [of Texas]: Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (S. Con. Res. 35)

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20. 97 Cong. Rec. 3918, 82d Cong. 1st Sess. H.R. 3587 had not yet been reported in the Senate. This situation differs from that in § 12.6, infra, in which the Senate had acted on the bill and requested a conference which had been agreed to by the House.

1. 97 Cong. Rec. 7254, 82d Cong. 1st Sess. As noted above (see § 12.5, supra), the Senate had requested and the House had agreed to a conference on the bill H.R. 3880.

ordering the reengrossment of the Senate amendment to H.R. 3880, the independent offices appropriation bill for 1952.

The Clerk read the concurrent resolution, as follows:

> *Resolved by the Senate (the House of Representatives concurring),* That the Secretary of the Senate be, and he is hereby, authorized and directed to reengross the amendments of the Senate to the bill (H.R. 3880) making appropriations for the Executive Office and sundry independent executive bureaus, boards, commissions, corporations, agencies, and offices for the fiscal year ending June 30, 1952, and for other purposes; and to reengross Senate amendment numbered 79 so as to read as follows:
>
> On page 35, line 23, strike out "$875,163,335" and insert "$873,105,770."

THE SPEAKER:[2] Is there objection to the request of the gentleman from Texas?

MR. [JOHN] PHILLIPS [of California]: Mr. Speaker, reserving the right to object, will the gentleman from Texas [Mr. Thomas] please explain the reason for the request on the part of the other body?

MR. THOMAS: Mr. Speaker, this resolution authorizes reengrossment of amendment No. 79 of the independent offices appropriation bill. It all adds up to this: Apparently the other body has made a mistake in printing or engrossing this amendment. Amendment No. 79 deals with salaries and expenses for the Veterans' Administration. What happened was that they show a reduction in that appropriation of about $1,200,000 more than the figure actually agreed upon by the Senate.

Correction in Engrossed Bill Prior to Disagreement to Senate Amendment

§ 12.7 A concurrent resolution authorizing the Clerk of the House to make certain corrections in the engrossed copy of a House bill was considered and agreed to before the House disagreed to a Senate amendment to the bill.

On July 16, 1968,[3] Mr. Wayne N. Aspinall, of Colorado, asked unanimous consent for the consideration of a concurrent resolution (H. Con. Res. 798) authorizing the Clerk of the House of Representatives to make certain changes in the engrossed copy of the bill (H.R. 9098) to revise the boundaries of the Bad Lands National Monument in the State of South Dakota.

The resolution read in part as follows:

> In lieu of the language appearing on page 4, lines 9 through 21 of the House engrossed bill and the Senate amendment thereto, insert the following:
>
> "(b) Any former Indian or non-Indian owner of a tract of land, whether title was held in trust or fee, may purchase such tract from the Secretary of the Interior. . . ."

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[2] Sam Rayburn (Tex.).

[3] 114 CONG. REC. 21538, 90th Cong. 2d Sess.

The concurrent resolution was agreed to.

Mr. Aspinall then asked unanimous consent to take from the Speaker's table the same bill messaged back to the House from the Senate with a Senate amendment. Mr. Aspinall asked unanimous consent to consider such bill and disagree to the Senate amendment.

There was no objection.

Effecting Changes by Unanimous Consent

§ 12.8 By unanimous consent, the Clerk was authorized to include an amendment striking out a preamble in the engrossment of amendments to a Senate joint resolution passed in the House.

On Nov. 16, 1943,[4] Mr. Robert Ramspeck, of Georgia, made the following unanimous-consent request:

> Mr. Speaker, I ask unanimous consent that in the engrossment of the amendments to Senate Joint Resolution 47, providing for the appointment of a National Agricultural Jefferson Bicentenary Committee to carry out under the general direction of the United States Commission for the Celebration of the Two Hundredth Anniversary of the Birth of Thomas Jefferson appropriate exercises and activities in recognition of the services and contributions of Thomas Jefferson to the farmers and the agriculture of the Nation, the Clerk of the House be authorized to include therein an amendment striking out the preamble.
>
> THE SPEAKER:[5] Is there objection to the request of the gentleman from Georgia?
>
> There was no objection.

§ 12.9 Where the House amended the text of a Senate bill but neglected to make a conforming change in the title thereof, the Clerk was authorized and directed, by unanimous consent, to correct the oversight by inserting the correct title in the engrossment of the House amendments to the Senate bill.

On May 15, 1968,[6] Mr. William R. Poage, of Texas, made the following unanimous-consent request:

> Mr. Speaker, I ask unanimous consent that in the engrossment of the amendment to the Senate bill (S. 2986) to extend Public Law 480, 83d Congress, to which the House agreed yesterday, that the Clerk of the House be authorized and directed to make a conforming amendment to the title of the bill. The title of the Senate bill provided for a 3-year extension of the law, but the House only extended the law until December 31, 1969.
>
> The title should be amended to read as follows:

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[4] 89 CONG. REC. 9587, 78th Cong. 1st Sess.

[5] Sam Rayburn (Tex.).

[6] 114 CONG. REC. 13400, 90th Cong. 2d Sess.

> To extend the Agricultural Trade and Assistance Act of 1954, as amended, and for other purposes.
>
> THE SPEAKER:(7) Is there objection to the request of the gentleman from Texas?
>
> MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, reserving the right to object, that means then specifically that it is limited to 1 year?
>
> MR. POAGE: That is right; it just gets it in the title.
>
> MR. GROSS: Mr. Speaker, I withdraw my reservation of objection.
>
> THE SPEAKER: Is there objection to the request of the gentleman from Texas?
>
> There was no objection.

§ 12.10 The Clerk may be authorized by unanimous consent to make certain changes in section numbers, cross references, and other technical changes during the engrossment of a House-passed bill.

On Oct. 11, 1967,(8) Mr. Thaddeus J. Dulski, of New York, made the following unanimous-consent request:

> Mr. Speaker, I ask unanimous consent that the Clerk be authorized to make the appropriate conforming changes in, and omissions of, section numbers and references in the bill (H.R. 7977).
>
> THE SPEAKER:(9) Is there objection to the request of the gentleman from New York?
>
> There was no objection.

Similarly, on July 24, 1968,(10) after the House passed H.R. 17735, Mr. Emanuel Celler, of New York, made the following unanimous-consent request:

> Mr. Speaker, because of the number of amendments adopted to the bill just passed, I ask unanimous consent that the Clerk, in the engrossment of the bill, be authorized and directed to make such changes in section numbers, cross-references, and other technical and conforming corrections as may be required to reflect the actions of the House. . . .
>
> There was no objection.

§ 12.11 The Clerk was authorized, by unanimous consent, to make clerical corrections in the engrossment of a House amendment to a Senate bill.

On Sept. 12, 1967,(11) Mr. Wright Patman, of Texas, made the following unanimous-consent request:

> Mr. Speaker, I ask unanimous consent that the Clerk may make any necessary corrections in punctuation, section numbers, and cross references in the amendment of the House to the bill, S. 1862.
>
> THE SPEAKER:(12) Is there objection to the request of the gentleman from Texas?

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7. John W. McCormack (Mass.).
8. 113 CONG. REC. 28672, 90th Cong. 1st Sess.
9. John W. McCormack (Mass.).
10. 114 CONG. REC. 23096, 90th Cong. 2d Sess.
11. 113 CONG. REC. 25230, 90th Cong. 1st Sess.
12. John W. McCormack (Mass.).

There was no objection.

§ 12.12 A unanimous-consent request was made authorizing the Clerk in the engrossing of a revenue bill to make changes in the table of contents, to make clerical changes, and to amend or strike out cross references.

On Apr. 28, 1936,(13) Mr. Robert L. Doughton, of North Carolina, submitted the following unanimous-consent request:

> I ask unanimous consent that in the engrossing of the pending bill (H.R. 12395), the Clerk of the House be authorized:
>
> (1) To make such changes in the table of contents as may be necessary to make such table conform to the action of the House in respect of the bill;
>
> (2) To make such clerical changes as may be necessary to the proper numbering and lettering of the various portions of the bill, and to secure uniformity in the bill in respect of typography and indentation; and
>
> (3) To amend or strike out cross-references that have become erroneous or superfluous, and to insert cross-references made necessary by reason of changes made by the House.

§ 12.13 The Clerk of the House was directed, in the engrossment of House Resolution 7 (re the adoption of rules for the 90th Congress), to make certain corrections in the text of the resolution and the amendment thereto to reflect the intention of the House.

On Jan. 12, 1967,(14) Mr. Carl Albert, of Oklahoma, asked unanimous consent that in the engrossment of House Resolution 7 the Clerk of the House be authorized and directed to make certain corrections:

> **Mr. Gerald R. Ford** [of Michigan]: Mr. Speaker, reserving the right to object, as I understand it, the request of the distinguished majority leader is solely for the purpose of perfecting what the House intended to do on Tuesday last; is that correct?
>
> **Mr. Albert**: Mr. Speaker, will the distinguished minority leader yield?
>
> **Mr. Gerald R. Ford**: I yield to the gentleman from Oklahoma.
>
> **Mr. Albert**: Mr. Speaker, the gentleman from Michigan is correct. Most of them are obvious. Obviously, we were working last year under the rules of the 89th Congress, but there were two or three clerical errors and the only purpose is to correct clerical errors.
>
> **Mr. Gerald R. Ford**: Mr. Speaker, I withdraw my reservation of objection.
>
> **The Speaker**:(15) Is there objection to the request of the gentleman from Oklahoma?
>
> There was no objection.

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13. 80 Cong. Rec. 6299, 74th Cong. 2d Sess.

14. 113 Cong. Rec. 430, 431, 90th Cong. 1st Sess.

15. John W. McCormack (Mass.).

§ 13. Transmission of Legislative Messages Between House and Senate

Messages From House

§ 13.1 Customarily, sundry enrolled bills, signed by the Speaker, are announced as a group (but seldom by individual title or with reference to number or content) at the Senate door when they are messaged from the House, although this procedure has provoked discussion.

On May 20, 1963,(16) Senator Bourke B. Hickenlooper, of Iowa, raised a parliamentary inquiry:

> Mr. President, I wanted to make a parliamentary inquiry. For the record, may I ask if H.R. 4997, which is the feed grain bill, has been messaged over from the House to the Senate?
>
> THE PRESIDING OFFICER:(17) That bill has come over from the House and has been signed by the President pro tempore.
>
> MR. HICKENLOOPER: May I ask at what time it came over from the House?
>
> THE PRESIDING OFFICER: About 7 or 8 minutes after 12 o'clock.(18)
>
> MR. HICKENLOOPER: Was it presented through the so-called front door of the Senate and was any public announcement made of the message from the House at the time is was sent over?
>
> THE PRESIDING OFFICER: It was not officially announced when it was received.
>
> MR. HICKENLOOPER: So there was no public announcement, at the time the bill was coming from the House, of this having been signed by the Speaker. Is that correct?
>
> THE PRESIDING OFFICER: That is correct.
>
> MR. HICKENLOOPER: Therefore, there was no opportunity or knowledge on the part of anyone who might have wanted to raise parliamentary issues with regard to that bill because there was no opportunity as the result of any notice.
>
> THE PRESIDING OFFICER: Apparently there was none.
>
> MR. HICKENLOOPER: May I ask if that is the usual procedure, or the unusual procedure, for a bill to be messaged over surreptitiously and secretly from the House of Representatives, in that manner?
>
> THE PRESIDING OFFICER: The usual procedure is for a bill to be announced at the door.
>
> MR. HICKENLOOPER: It was not followed in this case.
>
> THE PRESIDING OFFICER: That is correct.
>
> MR. HICKENLOOPER: I thank the Chair for explaining this very interesting and unusual procedure in connection with this bill.(19)

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16. 109 CONG. REC. 9006, 88th Cong. 1st Sess.
17. Edward M. Kennedy (Mass.).
18. Recorded in the Record at 109 CONG. REC. 8978, 88th Cong. 1st Sess.
19. *Parliamentarian's Note:* H.R. 4997, the Feed Grain Act of 1963, was

Messages From Senate

§ 13.2 The Speaker lays before the House letters from the Clerk advising him that pursuant to authority granted, the Clerk had, during adjournment, received messages from the Senate relative to the passage of House bills.

On Apr. 12, 1965,(20) the Speaker(21) laid before the House the following communication from the Clerk of the House of Representatives:(22)

Office of the Clerk,
House of Representatives,
Washington, D.C., April 10, 1965.

The Honorable the Speaker,
House of Representatives.

Sir: Pursuant to authority granted on April 8, 1965, the Clerk received from the Secretary of the Senate today the following message:

That the Senate passed H.R. 2362, entitled "An act to strengthen and improve educational quality and educational opportunities in the Nation's elementary and secondary schools."

Respectfully yours,
Ralph R. Roberts,
Clerk, U.S. House of Representatives.

Revenue and Appropriation Measures

§ 13.3 The House has agreed to privileged resolutions providing for the return to the Senate of joint resolutions passed by that body and held to infringe on the revenue-raising powers of the House under the Constitution.

On Mar. 12, 1953,(1) the House considered and agreed to the following privileged resolution (H. Res. 176):

Resolved, That Senate Joint Resolution 52, making an appropriation out of the general fund of the District of Columbia, in the opinion of the House, contravenes the first clause of the sev-

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signed by the Speaker shortly after noon on May 20. Since there was some urgency about getting the bill to the White House as quickly as possible, the messenger from the House took the bill directly to the Senate where he was instructed, by the Secretary of the Senate, to take the bill directly to the desk for signature by the President pro tempore. The bill was then taken immediately to the White House by a representative of the Secretary of the Senate.

(20) 111 Cong. Rec. 7771, 89th Cong. 1st Sess.

(21) John W. McCormack (Mass.).

(22) See also 111 Cong. Rec. 14845, 89th Cong. 1st Sess. June 28, 1965; and 111 Cong. Rec. 9115, 89th Cong. 1st Sess. May 3, 1965.

For a more extensive discussion of House-Senate messages and House-Senate relations generally, see Ch. 32, infra.

(1) 99 Cong. Rec. 1897, 1898, 83d Cong. 1st Sess.

> enth section of the first article of the Constitution and is an infringement of the privileges of this House, and that the said joint resolution be taken from the Speaker's table and be respectfully returned to the Senate with a message communicating this resolution.

Again, on July 2, 1960,(2) the House considered and agreed to the following resolution (H. Res. 598):

> That Senate Joint Resolution 217 [extending Sugar Act of 1948] in the opinion of this House contravenes the first clause of the seventh section of the first article of the Constitution of the United States, and is an infringement of the privileges of this House, and that the said resolution be respectfully returned to the Senate with a message communicating this resolution.

Similarly, on Oct. 10, 1962,(3) the House considered and agreed to the following resolution (H. Res. 831):

> *Resolved,* That Senate Joint Resolution 234, making appropriations for the Department of Agriculture and the Farm Credit Administration for the fiscal year 1963, in the opinion of the House, contravenes the first clause of the seventh section of the first article of the Constitution and is an infringement of the privileges of this House, and that the said joint resolution be taken from the Speaker's table and be respectfully returned to the Senate with a message communicating this resolution.

The jurisdiction and authority of the House over revenue bills is treated more extensively in the chapter on the general powers and prerogatives of the House. See chapter 13, supra.

§ 14. Enrollment; Correcting Bills in Enrollment

Enrollment Procedure

§ 14.1 A bill is enrolled by the House in which it originated. Under the enrollment procedure, the bill is printed at the Government Printing Office on distinctive paper under special supervision.(4)

§ 14.2 Under Rule X clause 4(d)(1),(5) the Committee on House Administration has the function of "examining all bills, amendments, and joint resolutions after passage by the House and, in cooperation with the Senate, examining all bills and joint resolutions which shall have passed both Houses to see that they are correctly

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2. 106 Cong. Rec. 15818, 15819, 86th Cong. 2d Sess.
3. 108 Cong. Rec. 23014, 23015, 87th Cong. 2d Sess.
4. *Procedure in the U.S. House of Representatives* (97th Cong.), Ch. 24 § 6.1.
5. *House Rules and Manual* § 697b (1981).

enrolled, forthwith presenting those which originated in the House to the President of the United States in person after their signature by the Speaker of the House and the President of the Senate and reporting the fact and date of such presentation to the House."

§ 14.3 The Committee on House Administration reports to the House when it carries out its functions of certifying the correct enrollment of bills and joint resolutions.

On Mar. 24, 1947,(6) Mr. Karl M. Le Compte, of Iowa, from the Committee on House Administration reported that that committee had examined and found truly enrolled and signed by the Speaker the joint resolution of the House (H.J. Res. 27) proposing an amendment to the Constitution of the United States relating to the terms of office of the President. Mr. Le Compte announced further that that committee had presented to and filed with the Secretary of State such joint resolution.

Parliamentarian's Note: Constitutional amendments, having passed both Houses of Congress, are now presented to the Administrator of General Services for transmission to the several states for ratification. See 1 USC § 106b; 1 USC § 112.

§ 14.4 In the Senate, the responsibility for the correct enrollment of bills and joint resolutions is vested in the Secretary of the Senate.

On Jan. 30, 1945,(7) the Senate considered and agreed to the following resolution (S. Res. 64):

> *Resolved,* That the Secretary of the Senate shall examine all bills, amendments, and joint resolutions before they go out of the possession of the Senate, and shall examine all bills and joint resolutions which shall have passed both Houses, to see that the same are correctly enrolled, and, when signed by the Speaker of the House and the President of the Senate, shall forthwith present the same, when they shall have originated in the Senate, to the President of the United States, and report the fact and date of such presentation to the Senate.

Parliamentarian's Note: The provisions of this resolution are now part of the standing rules of the Senate. See Rule XIV, paragraph 5, Senate Manual § 14.5 (1975).

Authorizing Numerical Corrections

§ 14.5 The House agreed to a concurrent resolution providing

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6. 93 Cong. Rec. 2482, 80th Cong. 1st Sess.

7. 91 Cong. Rec. 591, 592, 79th Cong. 1st Sess.

that in the enrollment of general appropriation bills enacted during the remainder of a session, the Clerk of the House could correct chapter, title, and section numbers.

On July 4, 1952,(8) the House, by unanimous consent, considered and agreed to the following concurrent resolution (H. Con. Res. 239):

> *Resolved by the House of Representatives (the Senate concurring),* That in the enrollment of general appropriation bills enacted during the remainder of the second session of the Eighty-second Congress the Clerk of the House may correct chapter, title, and section numbers.

The Senate also agreed to this resolution (see H. Jour. 761, 82d Cong. 2d Sess., July 5, 1952).

Changing Items in Appropriation Bill

§ 14.6 Items in an appropriation bill not in disagreement between the two Houses, and hence not committed to the conferees, were, by unanimous consent, changed through adoption of a concurrent resolution directing the changes in the enrollment of the bill.

On July 23, 1962,(9) Mr. Albert Thomas, of Texas, called up for consideration under a previous unanimous-consent agreement a concurrent resolution (H. Con. Res. 505) making 29 changes in a supplemental appropriation bill (H.R. 11038). Had the items been included in the conference agreement, the report would have been subject to a point of order. In explanation of the concurrent resolution Mr. Thomas stated:

> Mr. Speaker, it will be recalled this deals with what we call the second supplemental appropriation bill for 1962. When the supplemental left the House it had 55 items carrying about $447 million, which was a reduction, in round figures, of $100 million under the budget, a reduction of about 20 percent.
>
> It went to the other body and that body added some 29 items, increasing the amount over the House by $112 million, which made a round figure of about $560 million.
>
> We bring to you two items, one a concurrent resolution and the other a conference report. First, why the concurrent resolution? We put in the concurrent resolution some 29 items which were originally in the supplemental, but those 29 items are a reduction—follow me now—below the figure that was in the supplemental when it left the House and the figure when it left the Senate.

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(8) 98 Cong. Rec. 9440, 82d Cong. 2d Sess.

(9) 108 Cong. Rec. 14400, 87th Cong. 2d Sess.

> It is a complete reduction and a change. It is in the concurrent resolution because it could not be in the conference report, and the reason it could not be in the conference report is because it is a reduction in those amounts.

The concurrent resolution was agreed to.(10)

Correcting Printing Errors

§ 14.7 The House agreed to a concurrent resolution authorizing the Clerk of the House, in the enrollment of a House bill, to correct certain printing errors in the bill as reported from conference to reflect the true intention of the conferees and the two Houses.

On Oct. 17, 1966,(11) the House, by unanimous consent, considered and agreed to the following concurrent resolution (H. Con. Res. 1039):

> *Resolved by the House of Representatives (the Senate concurring),* That the Clerk of the House of Representatives in the enrollment of the bill (H.R. 15857) to amend the District of Columbia Police and Fireman's Salary Act of 1958 to increase salaries of officers and members of the Metropolitan Police force and the Fire Department, and for other purposes, is authorized and directed to make the following corrections in the salary schedule for teachers, school officers, and certain other employees of the District of Columbia Board of Education, which is provided in section 202(1) of the bill:
>
> (1) In class 3, step 2, strike out "$16,856" and insert in lieu thereof "$16,865".
>
> (2) In class 3, step 6, strike out "18,115" and insert in lieu thereof "18,105".
>
> (3) In class 6, group C, principal level III, step 5, strike out "14,905" and insert "14,095".(12)

Return of Original Papers to Senate

§ 14.8 By concurrent resolution the Senate requested return of a House bill erroneously messaged to the House as having passed the Senate without amendment; the Secretary of the Senate was authorized, upon its return, to transmit the bill to the House with a Senate amendment, and provided for the return to the House of an incorrectly enrolled bill, signed by the Speaker, and that the Speaker's signature be rescinded.

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10. *Id.* at p. 14403.

11. 112 CONG. REC. 27152, 89th Cong. 2d Sess.

12. *Parliamentarian's Note:* Printing errors in the conference report were not discovered until after the Senate had acted on the report. These errors could have been corrected by a star print had they been caught before the two Houses had acted.

On Aug. 8, 1957,(13) the Speaker, Sam Rayburn, of Texas, laid before the House the following concurrent resolution (S. Con. Res. 46):

> *Resolved by the Senate (the House of Representatives concurring),* That the House of Representatives return to the Senate the engrossed bill (H.R. 5707) for the relief of the A. C. Israel Commodity Co., Inc., erroneously messaged to the House on August 6, 1957, as having passed the Senate on the preceding day without amendment; that upon its return to the Senate the Secretary shall transmit to the House the said bill, together with the amendment made by the Senate thereto; that the enrolled bill, signed by the Speaker of the House and transmitted to the Senate on yesterday, be returned to the House, and that the action of the Speaker in signing said enrolled bill be thereupon rescinded.

Rescinding Enrollment

§ 14.9 The House, by unanimous consent, agreed to a concurrent resolution rescinding the action of the Speaker and President of the Senate in signing an enrolled bill and directing the Clerk of the House to reenroll the bill with certain changes.

On Apr. 21, 1938,(14) the House agreed to the following concurrent resolution (S. Con. Res. 30) which had passed the Senate on Mar. 30, 1938:

> *Resolved by the Senate (the House of Representatives concurring),* That the action of the Speaker of the House of Representatives and the President of the Senate in signing the enrolled bill (H.R. 5793) for the relief of Josephine Fontana be, and it is hereby, rescinded, and the Clerk of the House be, and he is hereby, authorized and directed to reenroll the bill with the following amendments, viz: . . . strike out "Josephine Fontana, . . . $600 in full satisfaction of her claim" and . . . insert . . . "Nathaniel M. Harvey, as administrator of the estate of Josephine Fontana. . . ."

§ 14.10 The House, by unanimous consent, agreed to a Senate concurrent resolution rescinding the signatures of the two presiding officers on an enrolled bill and providing for its return to the Senate.

On May 24, 1956,(15) the House considered and agreed to the following concurrent resolution (S. Con. Res. 80):

> *Resolved by the Senate (the House of Representatives concurring),* That the action of the Speaker pro tempore of the House of Representatives and of the President of the Senate in signing the enrolled bill (H.R. 4656) relating to the Lumbee Indians of North Carolina

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13. 103 Cong. Rec. 14102, 85th Cong. 1st Sess.

14. 83 Cong. Rec. 5640, 75th Cong. 3d Sess.

15. 102 Cong. Rec. 8945, 84th Cong. 2d Sess.

be, and it is hereby, rescinded, and that the engrossed bill be returned to the Senate.

§ 14.11 The House, by unanimous consent, agreed to a Senate concurrent resolution rescinding the action of the Speaker and President of the Senate in signing an enrolled bill and requesting the House to return the engrossed copy to the Senate.

On Apr. 5, 1938,(16) the House considered and agreed to the following concurrent resolution (S. Con. Res. 29):

> *Resolved by the Senate (the House of Representatives concurring),* That the action of the Speaker of the House of Representatives and of the President of the Senate in signing the enrolled bill (H.R. 7158) to except yachts, tugs, towboats, and unrigged vessels from certain provisions of the act of June 25, 1936, as amended, be, and it is hereby, rescinded; and that the House of Representatives be, and it is hereby, requested to return to the Senate the engrossed bill.

§ 14.12 The House, by unanimous consent, agreed to a concurrent resolution rescinding the action of the Speaker and Vice President in signing an enrolled bill and requesting the House to return to the Senate its message announcing its agreement to an amendment of the House.

On June 4, 1935,(17) the House considered the following concurrent resolution (S. Con. Res. 16):

> *Resolved by the Senate (the House of Representatives concurring),* That the action of the Speaker of the House of Representatives and the Vice President of the United States, respectively, in signing the enrolled bill (S. 2105) to provide for an additional number of cadets at the United States Military Academy, and for other purposes, be, and the same is hereby, rescinded; and that the House of Representatives be, and it is hereby, requested to return to the Senate the message announcing its agreement to the amendments of the House to the said bill.

Reenrollment With a Correction

§ 14.13 The House, by unanimous consent, agreed to a concurrent resolution rescinding the action of the Speaker in signing an enrolled bill and authorizing the Clerk to reenroll it with a correction.

On Aug. 17, 1954,(1) the House considered and passed the following concurrent resolution (S. Con. Res. 106):

> *Resolved by the Senate (the House of Representatives concurring),* That the action of the Speaker of the House of Representatives in signing the enrolled bill (H.R. 1975) to amend section 2201

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16. 83 Cong. Rec. 4775, 75th Cong. 3d Sess.

17. 79 Cong. Rec. 8645, 74th Cong. 1st Sess.

1. 100 Cong. Rec. 14877, 83d Cong. 2d Sess.

> of title 28, United States Code, to extend the Federal Declaratory Judgments Act to the Territory of Alaska, be rescinded, and that the Clerk of the House be, and he is hereby authorized and directed, in the reenrollment of the bill, to make the following correction:
>
> On page 1, line 6 of the engrossed House bill, strike out the word "section" and in lieu thereof insert the word "sentence."

§ 14.14 The House, by unanimous consent, agreed to a Senate concurrent resolution authorizing and directing the Clerk of the House to reenroll a House bill with a correction.

On Oct. 13, 1966,[2] the House considered and agreed to the following concurrent resolution (S. Con. Res. 113):

> *Resolved by the Senate (the House of Representatives concurring),* That the Clerk of the House of Representatives of the United States be authorized to correct an enrolling error in H.R. 698, to provide for the establishment of the Guadalupe Mountains National Park in the State of Texas, and for other purposes, and that section 3(a) of H.R. 698, shall when corrected read as follows:
>
> "When title to all privately owned land within the boundary of the park, subject to such outstanding interests, rights, and easements as the Secretary determines are not objectionable. . . ."[3]

Reenrollment With a Change

§ 14.15 The House agreed to a concurrent resolution rescinding the action of the Speaker in signing an enrolled bill and authorizing the Secretary of the Senate to reenroll the bill with a change.

On June 16, 1954,[4] Speaker Joseph W. Martin, of Massachusetts, laid before the House a concurrent resolution (S. Con. Res. 87) which the House considered and agreed to:

> *Resolved by the Senate (the House of Representatives concurring),* That the action of the Speaker of the House of Representatives in signing the enrolled bill (S. 2657), to amend the act entitled "An act to regulate the practice of the healing art to protect the public health in the District of Columbia," be, and the same is hereby, rescinded; and that the Secretary of the Senate be, and he is hereby, authorized and directed to reenroll the bill with the following change, namely: On page 2, line 6, after the word "or", insert the word "by".

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[2] 112 CONG. REC. 26639, 26640, 89th Cong. 2d Sess.

[3] *Parliamentarian's Note:* The Senate originated this concurrent resolution since the error in the enrollment was in reality a Senate error reflecting a mistake in the engrossment of the Senate amendment to the House bill.

[4] 100 CONG. REC. 8360, 83d Cong. 2d Sess.

§ 14.16 The House, by unanimous consent, agreed to a concurrent resolution authorizing and directing the Secretary of the Senate to make certain corrections in the enrollment of a Senate bill.

On Aug. 25, 1966,(5) the House considered and agreed to the following concurrent resolution (H. Con. Res. 990):

> *Resolved,* That in the enrollment of the bill (S. 3105) to authorize certain construction at military installations, and for other purposes, the Secretary of the Senate is authorized and directed to make the following correction:
>
> In section 612, strike out "$50,000" and insert "$150,000".

§ 14.17 The House, by unanimous consent, agreed to a concurrent resolution authorizing the Secretary of the Senate to make such corrections in title and section numbers and cross references as may be necessary by reason of the omission of a title in an enrolled bill.

On Mar. 23, 1942,(6) the House considered and agreed to the following concurrent resolution (S. Con. Res. 27):

> *Resolved by the Senate (the House of Representatives concurring),* That in enrolling the bill (S. 2208) to further expedite the prosecution of the war, the Secretary of the Senate is authorized and directed to make all necessary corrections in title and section numbers and cross references as may be necessary by reason of the omission from the enrolled bill of title VIII.

§ 14.18 By unanimous consent, the House adopted a concurrent resolution authorizing and directing the Secretary of the Senate, in the enrollment of a bill, to make certain conforming changes to the title of the bill, changes designed to make the title conform to amendments made to the text thereof.

On Oct. 1, 1968,(7) the House considered and agreed to the following concurrent resolution (H. Con. Res. 838):

> CORRECTION OF TITLE OF THE BILL S. 698, INTERGOVERNMENTAL COOPERATION ACT OF 1968
>
> MR. [CHET] HOLIFIELD [of California]: Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 838) and ask unanimous consent for its immediate consideration.
>
> The Clerk read the concurrent resolution as follows:
>
> > *Resolved by the House of Representatives (the Senate concurring),* That the Secretary of the Senate in the enrollment of the bill (S. 698) to achieve the fullest cooperation and coordination of activities among the

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5. 112 CONG. REC. 20688, 89th Cong. 2d Sess.
6. 88 CONG. REC. 2808, 77th Cong. 2d Sess.
7. 114 CONG. REC. 28863, 90th Cong. 2d Sess.

levels of government . . . and for other purposes, is authorized and directed to correct the title of the bill so as to read: "An Act to achieve the fullest cooperation and coordination of activities among the levels of government . . . and for other purposes."

THE SPEAKER PRO TEMPORE:(8) Is there objection to the request of the gentleman from California?

There was no objection.

The concurrent resolution was agreed to.

Incomplete Enrollment

§ 14.19 Where in the enrollment of a bill a section thereof was omitted and the President signed the bill as presented to him, the Congress, by unanimous consent, immediately enacted an amendment to the law inserting the omitted section.

On July 1, 1954,(9) the House considered and agreed to a joint resolution (H.J. Res. 553) amending a law (Priv. L. No. 495) to include a section that had been inadvertently omitted from the enrolled bill sent to the President.(10)

Providing for Duplicate Enrollment

§ 14.20 Pursuant to a concurrent resolution brought up and agreed to by unanimous consent, the Clerk presented the duplicate copy of an enrolled bill to the President after the original copy had been lost.

On May 15, 1935,(11) the Speaker(12) laid before the House the following communication:

MAY 15, 1935.

The SPEAKER,
House of Representatives,
Washington, D.C.

SIR: Pursuant to the provisions of House Concurrent Resolution 21, Seventy-fourth Congress, I have this day presented to the President of the United States the signed duplicate copy of the enrolled bill, H.R. 6084. . . .

Very truly yours,
SOUTH TRIMBLE,
Clerk of the
House of Representatives.

Parliamentarian's Note: For circumstances which required this duplicate enrollment, see § 15.16, infra.

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(8) Carl Albert (Okla.).

(9) 100 CONG. REC. 9566, 83d Cong. 2d Sess.

(10) *Parliamentarian's Note:* In the enrollment of H.R. 7258, a private bill for the relief of the Willmore Engineering Company, a portion of the bill, section 2, which had been in the bill when it was passed by both the House and the Senate, was erroneously omitted. The erroneously enrolled bill was signed by the presiding officers of the two Houses and approved by the President on June 30, 1954. The omission of section 2 was discovered only after the bill had been approved by the President.

(11) 79 CONG. REC. 7633, 74th Cong. 1st Sess.

(12) Joseph W. Byrns (Tenn.).

§ 15 Signing

The practice of the two Houses of Congress in the signing of enrolled bills was formerly governed by joint rules, and has continued since those rules were abrogated in 1876.(13) A House-enrolled bill, having been approved as to form by the Committee on House Administration, and certified by the Clerk as having originated in the House, is reported to the House. Senate enrollments are delivered to the House after examination and certification by the Secretary of the Senate. All enrollments are signed first by the Speaker and then by the Vice President or President pro tempore of the Senate.(14)

Where the Record and Journal, through oversight, fail to indicate that the Speaker has signed a particular bill, the Speaker announces to the House the date on which he has signed the bill and asks that the permanent record and Journal be corrected accordingly.(15)

Authorization to Sign During Adjournments

§ 15.1 The House agreed to a concurrent resolution authorizing the Vice President and the Speaker to sign enrolled bills and joint resolutions of the two Houses that have been duly passed notwithstanding an adjournment.

On Aug. 24, 1935,(16) the House considered and agreed to the following concurrent resolution (H. Con. Res. 39):

> *Resolved by the House of Representatives (the Senate concurring),* That notwithstanding the adjournment of the first session of the Seventy-fourth Congress, the President of the Senate and the Speaker of the House of Representatives be, and they are hereby, authorized to sign any enrolled bills or joint resolutions duly passed by the two Houses and which have been examined by the Committee on Enrolled Bills of each House and found truly enrolled.

Similarly, on July 8, 1943,(17) the House considered and agreed to the following concurrent resolution (S. Con. Res. 18):

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(13) *House Rules and Manual* § 575 (1981).

(14) *Procedure in the U.S. House of Representatives* (97th Cong.), Ch. 24 § 11.1.

(15) *Procedure in the U.S. House of Representatives* (97th Cong.), Ch. 24 § 11.2.

(16) 79 Cong. Rec. 14583, 74th Cong. 1st Sess.

(17) 89 Cong. Rec. 7516, 78th Cong. 1st Sess.

> *Resolved by the Senate (the House of Representatives concurring),* That notwithstanding the adjournment of the two Houses as authorized by Senate Concurrent Resolution 17, the President of the Senate and the Speaker of the House of Representatives be and they are hereby, authorized to sign enrolled bills and joint resolutions duly passed by the two Houses which have been examined by the Committee on Enrolled Bills of each House and found truly enrolled.

Parliamentarian's Note: The earlier practice utilized a concurrent resolution to grant signing authority during an adjournment. Under a more recent practice, each House obtained its own unanimous-consent permission. Since Jan. 5, 1981, the Speaker has had permanent authority to sign enrollments whether or not the House is in session. See Rule I clause 4, *House Rules and Manual* § 624 (1981).

§ 15.2 The Senate agreed to a resolution authorizing the acting President pro tempore to sign enrolled bills and joint resolutions during adjournments and recesses for the remainder of the session.

On Dec. 12, 1963,(18) the Senate considered and agreed to the following resolution (S. Res. 235):

> *Resolved,* That notwithstanding adjournments or recesses of the Senate during the remainder of the present session of the Congress, the Secretary be authorized to receive messages from the House, and the President pro tempore or the Acting President pro tempore be authorized to sign during such adjournments or recesses enrolled bills and joint resolutions passed by the two Houses and found truly enrolled.

Parliamentarian's Note: See Senate Rule 1, paragraph 3, dealing with the authority of the President pro tempore and the acting President pro tempore to sign enrolled bills. Signing authority during periods of adjournment is customarily granted by unanimous consent.

§ 15.3 The House agreed to a concurrent resolution authorizing the Speaker and President pro tempore of the Senate to sign enrolled bills, notwithstanding "any" adjournment of the two Houses to a day certain.

On July 2, 1964,(19) the House considered and agreed to the fol-

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18. 109 Cong. Rec. 24329, 88th Cong. 1st Sess.
19. 110 Cong. Rec. 15897, 15898, 88th Cong. 2d Sess.

lowing concurrent resolution (H. Con. Res. 322):

> *Resolved*, That notwithstanding any adjournment of the two Houses until July 20, 1964, the Speaker of the House of Representatives and the President pro tempore of the Senate be, and they are hereby, authorized to sign enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

§ 15.4 Under a more recent practice, the Speaker was usually authorized by unanimous consent to sign enrolled bills and joint resolutions passed by the two Houses, notwithstanding a sine die adjournment.

On Oct. 2, 1964,(20) Mr. Carl Albert, of Oklahoma, was granted the following unanimous-consent request:

> Mr. Albert: Mr. Speaker, I ask unanimous consent that notwithstanding the sine die adjournment of the House, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.
>
> The Speaker:(1) Without objection, it is so ordered.
>
> There was no objection.

Parliamentarian's Note: Since Jan. 5, 1981, permanent authority to receive messages from the Senate is carried in Rule III clause 5 [*House Rules and Manual* § 647a (1981)], and the Speaker is authorized to sign enrolled bills by Rule I clause 4 [*House Rules and Manual* § 624 (1981)].

§ 15.5 Notwithstanding any adjournment of the House between Friday and Monday, the Speaker was authorized by unanimous consent to sign enrolled bills and joint resolutions passed by the two Houses.

On Dec. 13, 1963,(2) Mr. Carl Albert, of Oklahoma, asked unanimous consent that notwithstanding any adjournment of the House until Monday next the Clerk may be authorized to receive messages from the Senate and the Speaker may be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

There was no objection.

§ 15.6 The Speaker pro tempore, who had been elected to serve in that capacity, was authorized to sign enrolled bills and joint resolutions notwithstanding an adjournment of the House for only one day.

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20. 110 Cong. Rec. 23788, 88th Cong. 2d Sess.
1. John W. McCormack (Mass.).
2. 109 Cong. Rec. 24553, 88th Cong. 1st Sess.

On Sept. 21, 1961,(3) Mr. Carl Albert, of Oklahoma, asked unanimous consent that notwithstanding the adjournment of the House until the next day the Speaker pro tempore(4) be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

There was no objection.

§ 15.7 By unanimous consent, the Speaker was, on one occasion, authorized for the remainder of the session to sign enrolled bills and joint resolutions notwithstanding adjournments of the House.

On Aug. 10, 1961,(5) Mr. John W. McCormack, of Massachusetts, asked unanimous consent that notwithstanding any adjournment of the House during the present session of the 87th Congress the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

There was no objection.

§ 15.8 The House agreed to a unanimous-consent request that, notwithstanding sine die adjournment, the Speaker be authorized to sign enrolled bills duly passed.

On Dec. 21, 1943,(6) Mr. John W. McCormack, of Massachusetts, made the following request:

> Mr. Speaker, I ask unanimous consent that, notwithstanding the sine die adjournment of the first session of the Seventy-eighth Congress, the Speaker be authorized to sign enrolled bills and joint resolutions, duly passed by the two Houses and examined by the Committee on Enrolled Bills and found truly enrolled.

There was no objection.

Announcements as to Bills Signed During Adjournment

§ 15.9 The Speaker informed the House when the elected Speaker pro tempore had, pursuant to authority granted, signed certain enrolled bills during adjournment.

On July 14, 1958,(7) the Speaker(8) made the following statement:

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3. 107 CONG. REC. 20572, 87th Cong. 1st Sess.
4. Mr. John W. McCormack, of Massachusetts, had been elected on Aug. 31, 1961, to serve as Speaker pro tempore (see H. Jour. 949, 87th Cong. 1st Sess.). See § 15.14, infra, as to necessity of House approval of designation of Speaker pro tempore to permit his authorization to sign enrolled bills.
5. 107 CONG. REC. 15320, 87th Cong. 1st Sess.
6. 89 CONG. REC. 10958, 78th Cong. 1st Sess.
7. 104 CONG. REC. 13675, 85th Cong. 2d Sess.
8. Sam Rayburn (Tex.).

> The Chair desires to announce that, pursuant to the authority granted on Thursday, July 10, 1958, the Speaker pro tempore did on July 11, 1958, sign the following enrolled bills of the House:
>
> H.R. 7963. An act to amend the Small Business Act of 1953, as amended; and
>
> H.R. 11414. An act to amend section 314(c) of the Public Health Service Act.

§ 15.10 The Speaker announced the signing of enrolled bills after the House had adjourned to a day certain.

On July 26, 1948,(9) the Speaker(10) announced that pursuant to House Concurrent Resolution 219 of the 80th Congress he had made appointments to special committees and signed enrolled bills during an adjournment to a day certain.

§ 15.11 The Speaker announced that following the President's return of an enrolled bill and the reenrollment thereof with a correction, he (the Speaker) had thereafter signed the bill during a period of adjournment.

On July 20, 1964,(11) the Speaker(12) made the following announcement:

> The Chair desires to announce that after the President returned the bill, H.R. 10053, the Clerk of the House, pursuant to the provisions of House Concurrent Resolution 323, 88th Congress, caused the bill to be reenrolled with a correction. The Speaker, pursuant to the authority granted him by House Concurrent Resolutions 322 and 323 [to sign enrolled bills during an adjournment], 88th Congress, did on July 8, 1964, sign the same.

Vacating Signatures

§ 15.12 The House agreed to a Senate concurrent resolution requesting that the action of the Speaker in signing an enrolled bill be rescinded and that the House return to the Senate the message announcing the Senate's agreement to certain House amendments.

On June 3, 1953,(13) the House, by unanimous consent, considered and agreed to the following concurrent resolution (S. Con. Res. 31):

> *Resolved by the Senate (the House of Representatives concurring),* That the action of the Speaker of the House of Representatives in signing the enrolled bill (S. 1550) to authorize the President to prescribe the occasions upon which the uniform of any of the Armed Forces may be worn by persons honorably discharged therefrom be, and it is hereby, rescinded, and that the House

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9. 94 Cong. Rec. 9363, 80th Cong. 2d Sess.
10. Joseph W. Martin, Jr. (Mass.).
11. 110 Cong. Rec. 16249, 88th Cong. 2d Sess.
12. John W. McCormack (Mass.).
13. 99 Cong. Rec. 6000, 83d Cong. 1st Sess.

be, and it is hereby, requested to return to the Senate its message announcing its agreement to the House amendments.

§ 15.13 The House agreed to a Senate resolution requesting the House to rescind the action of the Speaker in signing an enrolled bill of the House and that such bill be returned to the Senate.

On July 30, 1942,(14) the Speaker pro tempore(15) laid before the House the following resolution from the Senate:

> *Resolved,* That the Secretary be directed to request the House of Representatives to rescind the action of the Speaker in signing the enrolled bill (H.R. 7297) entitled "An act authorizing the assignment of personnel from departments or agencies in the executive branch of the Government to certain investigating committees of the Senate and House of Representatives, and for other purposes," and that the House of Representatives be further requested to return the above-numbered engrossed bill to the Senate.
>
> The Speaker Pro Tempore: Without objection, it is so ordered.
>
> There was no objection.

Signing of Bills by Speaker Pro Tempore

§ 15.14 The House approved the designation of a Speaker pro tempore, thereby enabling him to sign enrolled bills.

On Feb. 24, 1949,(16) Mr. Mike Mansfield, of Montana, offered the following privileged resolution (H. Res. 116):

> *Resolved,* That the designation of Hon. John W. McCormack, a Representative from the State of Massachusetts, as Speaker pro tempore be approved by the House, and that the President of the United States and the Senate be notified thereof. . . .
>
> Mr. [Francis H.] Case of South Dakota: As I understand, this is the customary resolution to meet a situation, so that bills may be duly enrolled and presented for signature?
>
> Mr. Mansfield: The gentleman is correct. . . .
>
> The resolution was agreed to.

§ 15.15 The Speaker invited consideration of a resolution electing a Speaker pro tempore in order that enrolled bills might be signed in his absence.

On June 9, 1949,(17) the House considered and agreed to the following privileged resolution (H. Res. 243):

> *Resolved,* That Hon. John W. McCormack, a Representative from the State of Massachusetts, be, and he is hereby, elected Speaker pro tempore during the absence of the Speaker.

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14. 88 Cong. Rec. 6713, 77th Cong. 2d Sess.
15. Alfred L. Bulwinkle (N.C.).
16. 95 Cong. Rec. 1489, 81st Cong. 1st Sess.
17. 95 Cong. Rec. 7509, 81st Cong. 1st Sess.

Resolved, That the President and the Senate be notified by the Clerk of the election of Hon. John W. McCormack as Speaker pro tempore during the absence of the Speaker.

The Speaker(18) then offered the explanation below for the action taken:

This action is taken for two reasons: First, the Speaker will not be here Monday and Tuesday, and the immediate necessity is that there might be some enrolled bills that must be signed.

Signing of Duplicate Copy of Bill

§ 15.16 The House agreed to a concurrent resolution authorizing the Speaker and the Vice President to sign a duplicate copy of an enrolled bill and directing the Clerk of the House to transmit it to the President.

On May 15, 1935,(1) the House, by unanimous consent, considered and agreed to the following concurrent resolution (H. Con. Res. 21):

Resolved by the House of Representatives (the Senate concurring), That the Speaker of the House of Representatives and the President of the Senate be, and they are hereby, authorized to sign a duplicate copy of the enrolled bill H.R. 6084, entitled "An act to authorize the city of Ketchikan, Alaska, to issue bonds . . ." and that the Clerk of the House be directed to transmit the same to the President of the United States.(2)

§ 15.17 Where the Speaker signs a duplicate copy of an enrolled bill (the original having been lost) pursuant to a concurrent resolution authorizing such signing, he informs the House of that fact.

On May 27, 1938,(3) the Speaker(4) announced that pursuant to Senate Concurrent Resolution 37 the Chair had signed a duplicate copy of a Senate bill (S. 3532).

Suspension of Proceedings to Permit Signing

§ 15.18 Proceedings in the Committee of the Whole may be suspended to allow the Speaker to sign an enrolled bill.

On Feb. 26, 1964,(5) upon adoption of a motion to rise offered by

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18. Sam Rayburn (Tex.).
1. 79 Cong. Rec. 7598, 74th Cong. 1st Sess.
2. This concurrent resolution was adopted following the receipt of a communication from the President advising the House that the original copy of the enrolled bill (H.R. 6084) presented to the President had been lost. The President recommended that a duplicate bill be sent to him pursuant to authorization by a concurrent resolution.
3. 83 Cong. Rec. 7645, 75th Cong. 3d Sess.
4. William B. Bankhead (Ala.).
5. 110 Cong. Rec. 3653, 3654, 88th Cong. 2d Sess.

Mr. Wright Patman, of Texas, the Committee of the Whole, at the request of the Speaker, suspended consideration of a bill (H.R. 9022) to amend the International Development Association Act.

The Speaker[6] then signed an enrolled bill (H.R. 8363) to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes.[7]

Mr. Patman then moved that the House resolve itself into the Committee of the Whole to continue consideration of H.R. 9022. The motion was agreed to.

Parliamentarian's Note: The Committee is not required to vote to rise, but may rise "informally," without motion, to allow the Speaker to receive messages from the President or the Senate. Since the rules were amended in 1981 to permit the Speaker to sign enrolled bills, whether or not the House is in session (H. Res. 5, 97th Cong.), the concept of an "informal rising" of the Committee of the Whole has also been used to permit the Speaker to lay enrolled bills before the House. See *House Rules and Manual* § 625 (1983).

Senate Practice

§ 15.19 In the Senate, an acting President pro tempore, designated in writing by the elected President pro tempore, signs enrolled bills.

On June 20, 1963,[8] the legislative clerk of the Senate read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, D.C., June 20, 1963.*
>
> *To the Senate:*
>
> Being temporarily absent from the Senate, I appoint Hon. Birch Bayh, a Senator from the State of Indiana, to perform the duties of the Chair during my absence.
>
> CARL HAYDEN,
> *President pro tempore.*

The acting President pro tempore, pursuant to the authority granted by Rule I, paragraph 3[9] of the Senate rules, then signed three enrolled bills (H.R. 131, H.R. 3574, and H.J. Res. 180) which had been signed by the Speaker and messaged to the Senate.

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[6] John W. McCormack (Mass.).

[7] *Parliamentarian's Note:* President Lyndon B. Johnson (Tex.) had scheduled a ceremony in connection with his signing of this bill, the Revenue Act of 1963, later in the day. The White House had informed the Parliamentarian of this fact and the Speaker had agreed to expedite the handling of the enrollment in the House.

[8] 109 CONG. REC. 11253, 88th Cong. 1st Sess.

[9] Senate Rule I, paragraph 3 provides that "The President pro tempore shall have the right to name in open Senate or, if absent, in writing, a Senator to perform the duties of the Chair, including the signing of duly enrolled bills and joint resolutions but such substitution shall not extend beyond an adjournment, except by

§ 16. Recalling Bills From the President

Recall by Concurrent Resolution

§ 16.1 The House agreed to a concurrent resolution requesting the President to return an enrolled bill.

On Feb. 5, 1932,(10) the House, by unanimous consent, considered and agreed to the following concurrent resolution (S. Con. Res. 13):

> *Resolved by the Senate (the House of Representatives concurring),* That the President of the United States be, and is hereby, requested to return to the Senate the enrolled bill (S. 2199) entitled "An Act exempting building and loan associations from being adjudged bankrupts."

Recalling for Reenrollment

§ 16.2 The House agreed to a concurrent resolution requesting the President to return to the House an enrolled House joint resolution, rescinding the signatures of the two presiding officers and authorizing the Clerk of the House to reenroll it with corrections.

On July 26, 1956,(11) the House, by unanimous consent, considered and agreed to the following concurrent resolution (H. Con. Res. 271):

> *Resolved by the House of Representatives (the Senate concurring),* That the President of the United States is requested to return to the House of Representatives the enrolled House joint resolution (H.J. Res. 511). . . . If and when said resolution is returned by the President, the action of the presiding officers of the two Houses in signing said resolution shall be deemed rescinded, and the Clerk of the House is authorized and directed, in the enrollment of said resolution, to make the following correction: On the last line of the enrolled resolution strike out "waived" and insert "reserved."

§ 16.3 The House agreed to a concurrent resolution requesting the President to return an en-

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unanimous consent; and the Senator so named shall have the right to name in open session, or, if absent, in writing, a Senator to perform the duties of the Chair, but not to extend beyond an adjournment, except by unanimous consent."

10. 75 Cong. Rec. 3449, 72d Cong. 1st Sess.

11. 102 Cong. Rec. 14770, 84th Cong. 2d Sess. The Senate acted on this resolution on July 26, 1956, 102 Cong. Rec. 14648. The President returned the bill to the House on July 27, 1956, 102 Cong. Rec. 15178.

rolled bill, rescinding the action of the Vice President and the Speaker in signing the bill, and directing the Secretary of the Senate in the reenrollment of the bill to make certain corrections.

On Apr. 12, 1937,(12) the House, by unanimous consent, agreed to the following concurrent resolution (S. Con. Res. 8):

> *Resolved by the Senate (the House of Representatives concurring),* That the President of the United States be, and he is hereby requested to return to the Senate the enrolled bill (S. 1455) . . . that if and when the said bill is returned by the President, the action of the Speaker of the House of Representatives and of the President pro tempore of the Senate in signing the said bill be deemed to be rescinded; and that the Secretary of the Senate be, and is hereby, authorized and directed, in the reenrollment of the said bill, to make the following correction, viz: In the language inserted by the engrossed House amendment no. 4, on page 2, at the end of line 11 of the engrossed bill, strike out the word "lieutenant" and insert the words "lieutenant colonel."

§ 16.4 The House agreed to a concurrent resolution requesting the President to return to the House an enrolled House bill, rescinding the signatures of the two presiding officers, and directing the Clerk to reenroll the bill to conform with a conference report adopted by the two Houses.

On Sept. 4, 1962,(13) the House, by unanimous consent, considered and agreed to the following concurrent resolution (H. Con. Res. 519):

> *Resolved by the House of Representatives (the Senate concurring),* That the President of the United States is requested to return to the House of Representatives the enrolled bill (H.R. 10062) to extend the application of certain laws to American Samoa. If and when said bill is returned by the President, the action of the presiding officer of the two Houses in signing in said bill shall be deemed rescinded; and the Clerk of the House is authorized and directed to reenroll said bill in accordance with the conference report therein adopted by the two Houses.

Recall and Postponement

§ 16.5 The House agreed to a concurrent resolution requesting the President to return an enrolled bill, rescinding the action of the two presiding officers in

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(12) 81 Cong. Rec. 3397, 75th Cong. 1st Sess. The President returned this bill to the Senate on Apr. 15, 1937, 81 Cong. Rec. 3497, 3498.

(13) 108 Cong. Rec. 18405, 87th Cong. 2d Sess. The Senate concurred in this resolution on Sept. 4, 1962, 108 Cong. Rec. 18482. The President acceded to this request on Sept. 11, 1962, 108 Cong. Rec. 19092.

signing said bill, and postponing the bill indefinitely.

On May 13, 1953,(14) the House considered and agreed to the following concurrent resolution (H. Con. Res. 99):

> *Resolved by the House of Representatives (the Senate concurring),* That the President of the United States is requested to return to the House the enrolled bill (H.R. 1101) for the relief of Daniel Robert Leary. If and when said bill is returned by the President, the action of the Presiding Officers of the two Houses in signing said bill shall be deemed rescinded, and the bill shall be postponed indefinitely.

Recall and Return to Senate

§ 16.6 The Senate considered and postponed indefinitely a concurrent resolution requesting the President to return to the House an enrolled joint resolution, and requesting the House to return the joint resolution to the Senate.

On Jan. 10, 1952,(15) the Vice President(16) laid before the Senate the following concurrent resolution (S. Con. Res. 53):

> *Resolved by the Senate (the House of Representatives concurring),* That the President of the United States be, and he is hereby, requested to return to the House of Representatives the enrolled joint resolution (H. J. Res. 289) to terminate the state of war between the United States and the Government of Germany; that if and when returned the action of the Presiding Officers in signing the joint resolution be rescinded, and that the House be requested to return the engrossed joint resolution to the Senate.

Action on the concurrent resolution was indefinitely postponed.

Message to Senate When Enrolled Bill Returned to House, Engrossment Transmitted to Senate

§ 16.7 The House transmitted to the Senate an engrossed bill, the enrolled bill having been returned to the House by the President pursuant to a Senate concurrent resolution.

On July 3, 1947,(17) the following message was recorded in the

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14. 99 CONG. REC. 4895, 83d Cong. 1st Sess. The Senate concurred in this resolution on May 14, 1953, 99 CONG. REC. 4915. The President returned the bill on May 19, 1953, 99 CONG. REC. 5139.

15. 98 CONG. REC. 71, 72, 82d Cong. 2d Sess.

16. Alben W. Barkley (Ky.).

17. 93 CONG. REC. 8203, 80th Cong. 1st Sess. S. Con. Res. 22 was adopted by the Senate on June 30, 1947, 93 CONG. REC. 7876. The House concurred on July 1, 1947, 93 CONG. REC. 8012. Following a conference on the bill, the conference report was agreed to in the Senate on July 25, 1947, 93 CONG. REC. 10139, and in the House on July 26, 1947, 93 CONG. REC. 10494.

Record as having been received in the Senate from the House:

> A message from the House of Representatives, by Mr. Maurer, one of its reading clerks, informed the Senate that the President of the United States having returned to the House of Representatives the enrolled bill (H.R. 493) to amend section 4 of the act entitled "An act to control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia," approved July 8, 1932 (sec. 22, 3204 D.C. Code, 1940 ed.)," in compliance with the request contained in Senate Concurrent Resolution No. 22; and returned the engrossed copy of said bill to the Senate.

§ 16.8 The President returned to the Senate an enrolled bill pursuant to a request contained in a concurrent resolution adopted by the two Houses.

On June 13, 1960,(18) the Vice President laid before the Senate the following message from the President of the United States:

> *To the Senate of the United States:*
>
> In compliance with the request contained in the resolution of the Senate (the House of Representatives concurring therein), I return herewith S. 1892 entitled "An Act to authorize Secretary of the Interior to construct, operate, and maintain the Norman project, Oklahoma, and for other purposes."
>
> DWIGHT D. EISENHOWER,
> THE WHITE HOUSE,
> *June 11, 1960.*

§ 16.9 The President returned to the House an enrolled bill pursuant to a request contained in a concurrent resolution passed by the two Houses.

On July 3, 1947,(19) the Speaker(20) laid before the House the following message from the President of the United States:

> *To the House of Representatives:*
>
> In compliance with the request contained in the resolution of the Senate (the House of Representatives concurring therein), I return herewith H.R. 493, an act to amend section 4 of the act entitled "An act to control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia," approved July 8, 1932 (sec. 22, 3204 D.C. Code, 1940 ed.).
>
> HARRY S TRUMAN,
> THE WHITE HOUSE,
> *July 3, 1947.*

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18. 106 CONG. REC. 12370, 12371, 86th Cong. 2d Sess. S. Con. Res. 109 was adopted by the Senate on June 6, 1960, 106 CONG. REC. 11905, and concured in by the House on June 7, 1960, 106 CONG. REC. 12009.

19. 93 CONG. REC. 8260, 80th Cong. 1st Sess. See also § 16.7, supra.

20. Joseph W. Martin, Jr. (Mass.).

C. VETO POWERS

§ 17. In General

The term "veto" is nowhere to be found in the Constitution. Rather, what is provided is a procedure, under article I, section 7, whereby the President participates with the Congress in the enactment of laws. His power under article I to disapprove (veto) a bill presented to him was described by Alexander Hamilton as a "qualified negative" designed to provide a defense for the executive against the Congress and "to increase the chances in favour of the community against the passing of bad laws, through haste, inadvertence, or design."(1)

Article I, section 7, paragraph 2 of the Constitution provides:

> Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively.
>
> If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

Thus the President has a 10-day period (Sundays excepted), beginning at midnight on the day of presentation to him,(2) in which to approve or disapprove a bill. He can sign the bill into law or he can return it to the House of its origination with a message detailing why he chooses not to sign. If he fails to act during that period, the bill will become law automatically, without his signature. However, if before the end of that 10-day period the Congress adjourns *sine die* and thereby prevents the return of the bill, the bill does not become law if the President has taken no action (i.e., approval or disapproval) regarding it. This latter procedure is commonly re-

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1. Alexander Hamiliton, *The Federalist*, No. 73.

2. See § 17.1, infra.

ferred to as a "pocket veto." The authority to "pocket veto" during intrasession and intersession adjournments has been the subject of litigation, which is discussed in § 18, infra.

Collateral Reference

For a chronological list of Presidential vetoes and congressional action thereon, from 1789 to 1968, see Senate Library, *Presidential Vetoes,* U.S. Government Printing Office, Washington, D.C. 1969.

Ten-day Period

§ 17.1 The 10-day period given the President under the Constitution in which to approve or reject a bill may be considered as beginning at midnight of the day on which the bill is presented to him.

On Sept. 14, 1959,(3) Mr. Kenneth B. Keating, of New York, propounded a parliamentary inquiry in the Senate concerning the veto message of the President delivered to the House on a private bill (H.R. 2717). He inquired whether more than 10 days had expired since the bill was presented to the President under the provisions of article I, section 7, of the Constitution.(4)

The Presiding Officer(5) responded that the 10-day limitation begins to run as of midnight on the day on which a bill is presented to the President for his approval.

Parliamentarian's Note: The day on which the bill is presented to the President is not counted in the computation.

§ 17.2 A private bill sent to the White House on Aug. 31, 1959, but not presented to the President until after his return from Europe on Sept. 7, was returned without the President's approval on Sept. 14, 1959.

On Sept. 14, 1959,(6) the Speaker(7) laid before the House

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3. 105 Cong. Rec. 19553, 86th Cong. 1st Sess.

4. H.R. 2717 was presented at the White House on Aug. 31, 1959. However, it was not presented to the President until after his return from Europe on Sept. 7. The enrolled bill, when returned to the House with the veto message, carried a stamped notation added at the White House, reading as follows: "Aug. 31, 1959. Held for presentation to the President upon his return to the United States." The issue of whether the veto message was beyond the 10-day period is discussed in §§ 17.3 and 17.4, infra.

5. Howard W. Cannon (Nev.).

6. 105 Cong. Rec. 19697, 86th Cong. 1st Sess.

7. Sam Rayburn (Tex.).

the veto message of the President received on that day of a private bill (H.R. 2717). The bill had been sent to the President on Aug. 31.

After the veto message had been read the Speaker declared:

> The objections of the President will be spread at large upon the Journal, and, without objection, the bill and message will be referred to the Committee on the Judiciary and ordered to be printed.
>
> There was no objection.

§ 17.3 Whether a bill has been acted on by the President within the 10 days allowed him by the Constitution is a legal question and not open to determination by the Presiding Officer of the Senate.

On Sept. 14, 1959,(8) Senator Kenneth B. Keating, of New York, raised several parliamentary inquiries in the Senate regarding the purported veto by President Eisenhower of a private bill (H.R. 2717):

> Mr. President, I rise to propound a parliamentary inquiry: On March 17, 1959, the House of Representatives passed, and on August 27, 1959, the Senate passed, House bill 2717, for the relief of Eber Bros. Wine & Liquor Corp.
>
> The bill was sent to the White House on August 31, 1959. However, I am informed that it was not brought to the President's personal attention, by his staff, until approximately 5 days ago. The President has today disapproved the bill and returned it here. . . .
>
> My question is whether the status of a bill passed by the Congress is affected in any way by the President's purported veto of the bill this morning, more than 10 days after it was delivered at the White House.
>
> The Presiding Officer:(9) The Chair states that if the President has vetoed the bill, it being a House bill, it will go back to the House for further action. If the House overrides the veto, it will be submitted to the Senate, and there will be an opportunity to act upon it. . . .
>
> Mr. Keating: My inquiry, which the Chair may be unwilling or should refrain from responding to, is this: Is any action by the Congress necessary if the President retains a bill for more than 10 days before he acts on it?
>
> The Presiding Officer: According to the Constitution, the bill should become a law if it has not been acted upon within 10 days after it has been presented to the President. The matter of whether 10 days have elapsed is a question for legal determination, and not for the Chair to determine.

§ 17.4 The Court of Claims has ruled that where the President was on a trip abroad and, with congressional acquiescence, had requested that bills from Congress were to be received at the White House for presentation to him only upon his return to the United States, the President's

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8. 105 Cong. Rec. 19553, 19554, 86th Cong. 1st Sess.

9. Howard W. Cannon (Nev.).

veto of a bill more than 10 days after delivery to the White House but less than 10 days from his return to the country was timely.

On Oct. 16, 1964, the U.S. Court of Claims took up the question of the effectiveness of a Presidential veto in *Eber Brothers Wine & Liquor Corporation* v *U.S.*(10) On Aug. 31, 1959, the Congress had delivered at the White House a private bill (H.R. 2717) for the relief of the Eber Brothers Wine and Liquor Corporation. The President was not in the country at the time. He returned on Sept. 7, and on Sept. 14, he vetoed the bill and sent his veto message to the House of Representatives. The House did not reconsider the bill.

The Eber Bros. Corp. filed suit in the Court of Claims asking for the relief provided in H.R. 2717, claiming that the bill had become law since the President had taken no action regarding it within 10 days of its presentation to him on Aug. 31.

The Court denied the plaintiff's contention. It ruled that the "presentation" to the President contemplated in article I, section 7 of the Constitution took place in this case on Sept. 7, when the President had properly vetoed the bill within 10 days after that date.

To reach this conclusion the Court reasoned that article I section 7 contemplates two important duties to be performed by the President and the Congress respectively: the President must consider a bill, and the Congress must reconsider it in the event it is vetoed by the President. The President has 10 days (Sundays excepted) to consider the bill after it is "presented" to him, and the Congress has an indefinite time to reconsider a veto provided it has not by its adjournment prevented its return.

"It is also important," the Court said, "that under the careful words of the Constitution, the President's limited time for considering a bill does not begin until the measure is *presented* to him. That period does not mechanically commence at the end of the passage of the bill through the Congress. A further step is necessary, and the initiation of that step—presentation to the President—lies with the Congress."(11)

The Court went on to say that the manner of presentation is a matter two sides are free to agree on between themselves. "[T]hough personal presentation to the Presi-

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10. 337 F2d 624 (Ct. Cl.); cert. denied, 380 U.S. 950 (1964).

11. *Id.* at p. 629.

dent is not mandatory, either the Congress or the President can insist on such delivery [,]" in order to protect the duties of consideration and reconsideration assigned them by the Constitution. However, and most importantly, ". . . If personal delivery is not demanded by either side, presentation can be made in any agreed manner or in a form established by one party in which the other acquiesces [.]"(12)

The Court found that in this case, and in light of the practice during previous administrations regarding Presidential trips abroad, the Congress had acquiesced in President Eisenhower's wish that bills delivered to the White House not be "presented" to him until his return from abroad.(13)

§ 17.5 The 10 days provided in the Constitution during which the President may hold a bill without action runs from the day it is presented to him and not from the day noted in the Record as delivered at the White House.

On Dec. 1, 1943,(14) the Speaker(15) laid before the House the veto message of the President on the bill (H.R. 1155) for the relief of two military officers, where it appeared that, although the bill had been at the White House for more than 10 days, the President acted on the bill within 10 days of its presentation to him. In the veto message the President stated that the bill was presented to him on Nov. 25, 1943. The *Congressional Record* of Nov. 12, 1943, records that this bill was presented to the President for his approval on that date. The enrolled copy of the bill returned by the President along with his veto message bore a White House stamp dated Nov. 12, 1943, along with the handwritten notation "for forwarding."

The House did not vote on the returned bill but, by unanimous consent, referred the bill and message to the Committee on Claims.

Bill Signed in Prior Capacity as Presiding Officer of Senate

§ 17.6 The President has vetoed a bill he had previously signed as Presiding Officer of the Senate.

On Apr. 19, 1945,(16) the Speaker(17) laid before the House

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12. *Id.*
13. *Id.* at pp. 630-34.
14. 89 Cong. Rec. 10190, 78th Cong. 1st Sess.
15. Sam Rayburn (Tex.).
16. 91 Cong. Rec. 3577, 79th Cong. 1st Sess.
17. Sam Rayburn (Tex.).

the veto message of President Harry Truman relating to a private bill (H.R. 2055).

Parliamentarian's Note: After Vice President Truman had signed the enrolled bill as President of the Senate, and after the enrolled bill had been sent to the White House, President Franklin D. Roosevelt died. The Vice President became President and the bill was presented to him for approval as President.

Approval of Bill Similar to One Previously Vetoed

§ 17.7 The President vetoed a Senate joint resolution but subsequently signed a similar House joint resolution modified by an amendment.

On May 22, 1935,[18] Mr. William M. Citron, of Connecticut, obtained unanimous consent to take from the table House Joint Resolution 107, authorizing the President of the United States to proclaim Oct. 11, of each year, General Pulaski's Memorial Day. The resolution was agreed to with a committee amendment limiting the memorial day to Oct. 11, 1935, rather than Oct. 11, of each year. The Senate on May 28 passed the House joint resolution and the President signed it on June 6.

Parliamentarian's Note: This resolution was similar to Senate joint resolution (S.J. Res. 21) which had previously passed both Houses and which provided for an annual commemorative day, each October, without limitation. The Senate joint resolution was vetoed by the President on Apr. 11, 1935.

§ 18. Effect of Adjournment; The Pocket Veto

The President is not restricted to signing a bill on a day when Congress is in session. He may sign within 10 days (Sundays excepted) after the bill is presented to him, even if that period extends beyond the date of the final adjournment of Congress. The President is said to "pocket veto" a bill where he takes no action on the bill during the 10-day period and where the Congress adjourns before the expiration of that time in such a manner as to prevent the return of the bill to the originating House.

The Supreme Court first considered the question of the pocket veto in 1929 in what is commonly referred to as the Pocket Veto Case.[19] In this case a Senate bill

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[18] 79 Cong. Rec. 8026, 74th Cong. 1st Sess.

[19] *Okanogan, et al.* v *U.S.*, 279 U.S. 655 (1929).

(S. 3185) authorizing certain Indian tribes to offer their claims to the Court of Claims was presented to the President on June 24, 1926. On July 3 of that year the first session of the 69th Congress adjourned *sine die.* The 10-day period for Presidential approval expired on July 6, by which time the President had neither signed the bill nor returned it to the Senate with his reasons for disapproval.

Taking the position that the bill had become law, the Indian tribes affected sought adjudication of their claims in the Court of Claims in accordance with the terms of the bill. The United States demurred to their petition on the ground that the bill had not become law. The Court of Claims sustained the demurrer and dismissed the petition. The Supreme Court granted certiorari in the case(20) to determine whether ". . . within the meaning of the last sentence [of art. I, § 7, paragraph 2] . . . Congress by the adjournment on July 3 prevented the President from returning the bill within 10 days, Sundays excepted, after it had been presented to him . . . ."(1) The Court answered this question in the affirmative, and held that the bill did not become law.(2)

Mr. H. William Sumners, of Texas, a member of the Committee on the Judiciary submitted a brief as *amicus curiae* in the case in which he argued that only a final adjournment of the Congress, terminating its legislative existence, would prevent the President from returning a bill for reconsideration within the meaning of the Constitution and that during interim adjournments the President could return a bill to an agent of the House in which the bill originated to be presented as unfinished legislative business when that House reconvened.

Counsel for the petitioners argued further that the term "ten days" in the Constitution should be construed as meaning 10 "legislative days" so that the period would cease running while the Congress was not in session.

The *amicus curiae* argued that the President has only a qualified negative over legislation which requires him to return vetoed bills to the Congress along with his written objections. Thus, ". . . the provision as to the return of a bill within a specified time is to be construed in a manner that will give effect to the reciprocal rights and duties of the President and of Congress and not enable him to defeat a bill of which he disapproves by a silent and 'absolute veto,' that is, a so-called 'pocket veto,' which neither discloses his objections nor gives Congress an opportunity to pass the bill over them. . . ."(3)

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(20) 278 U.S. 597.

(1) 279 U.S. 655, 674.

(2) *Id.* at p. 692.

To this the Court responded that the President does indeed have only a qualified negative over legislation which requires the return of a disapproved bill along with his written objections. To carry out this "monumentous duty," however, the President must have the full amount of time allotted to him by the Constitution. ". . . And it is plain that when the adjournment of Congress prevents the return of a bill within the allotted time, the failure of the bill to become a law cannot properly be ascribed to the disapproval of the President . . . but is attributable solely to the action of Congress in adjourning before the time allowed the President for returning the bill had expired. . . ."(4)

The Court rejected the contention of the counsel for the petitioners that the 10-day limitation in the Constitution should be construed as 10 "legislative" days since it could find no precedent or reason to so modify the plain meaning of the words used. And for like reasons it rejected the contention of the *amicus curiae* that the term "adjournment" as used in article I section 7, paragraph 2 means the final adjournment of Congress. On the contrary, it found that the term adjournment as used in other parts of the Constitution is not limited to a final adjournment.

The Court then considered the contention that the President may return a vetoed bill to an agent of the House in which it originated when that House is not in session. The Court found that ". . . under the constitutional mandate [a vetoed bill] is to be returned to the 'House' when sitting in an organized capacity for the transaction of business and having authority to receive the return, enter the President's objections on its journal, and proceed to reconsider the bill; and that no return can be made to the House when it is not in session as a collective body and its members are dispersed. . . ."(5)

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3. *Id.* at p. 676.

4. *Id.* at pp. 678, 679.

5. As authority for its finding that the term "House" means a constitutional quorum assembled for the transaction of business, the Court cited *Mis-*

Finally, the Court found that the Congress had acquiesced in the "pocket vetoes" of Presidents since the administration of James Madison, and that, "long settled and established practice is a consideration of great weight in a proper interpretation of constitutional provisions of this character."(6)

The Supreme Court again considered the question of the "pocket veto," albeit indirectly, in 1938 in the case of *Wright* v *United States.*(7)

Senate bill No. 713 of the 74th Congress, having passed both Houses, was presented to the President on Friday, Apr. 24, 1936. On Monday, May 4, 1936, the Senate took a recess until noon, Thursday, May 7, 1936, while the House of Representatives remained in session. S. 713 was vetoed by the President and returned along with his message of disapproval to the Secretary of the Senate on May 5.(8) When the Senate reconvened on May 7, the veto message of the President was laid before the Senate, recorded in the Journal, and referred to the Committee on Claims. No further action was taken on the bill.

The bill proposed to grant jurisdiction to the Court of Claims to hear the case of David A. Wright. Mr. Wright subsequently sought adjudication of his case in the Court of Claims, contending that S. 713 had become law. The Court of Claims denied his petition, and the Supreme Court granted certiorari.(9)

The Court held that S. 713 had not become law since the President had followed a valid veto procedure. The Court found that since the Senate was in recess for less than three days while the House of Representatives remained in session in accordance with article I, section 5, clause 4, of the Constitution,(10) this was not an "adjournment" of Congress within the meaning of article I, section 7, clause 2, that would have prevented the President from returning a vetoed bill with

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souri Pac. Ry. Co. v *Kansas,* 248 U.S. 276, 280, 281, 283: and 1 Curtis' *Constitutional History of the United States,* 486, n. 1.

6. 279 U.S. 655, 689.

7. 302 U.S. 583.

8. The 10-day constitutional period for Presidential consideration would have expired on the next day, May 6.

9. 301 U.S. 681.

10. That is, "Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting."

his objections. The Court found that the definition of "the Congress" in the Constitution is precise. Both the Senate and the House of Representatives constitute the Congress.(11)

The Court further answered the objection of the petitioner that a vetoed bill could not properly be returned to the Secretary of the Senate when that body was in recess:

> . . . The Constitution does not define what shall constitute a return of a bill or deny the use of appropriate agencies in effecting the return.
>
> Nor was there any practical difficulty in making the return of the bill during the recess. The organization of the Senate continued and was intact.
>
> The Secretary of the Senate was functioning and was able to receive, and did receive, the bill. . . . To say that the President cannot return a bill when the House in which it originated is in recess during the session of Congress, and thus afford an opportunity for the passing of the bill over the President's objections, is to ignore the plainest practical considerations and by implying a requirement of an artificial formality to erect a barrier to the exercise of a constitutional right.(12)

A third decision regarding the pocket veto was handed down by the U.S. Court of Appeals for the District of Columbia in 1974, in *Kennedy* v *Sampson.*(13) The Court there held that a bill—allegedly pocket-vetoed—did become a law, and an intrasession adjournment of Congress did not prevent the President from returning the bill where appropriate arrangements had been made for the receipt of Presidential messages during the adjournment.

Kennedy v *Sampson* involved S. 3418 of the 91st Congress (the Family Practice of Medicine Act), which passed both Houses and was presented to the President on Dec. 14, 1970. On Dec. 22, 1970, Congress adjourned by concurrent resolution for the Christmas holidays, the Senate until Dec. 28, and the House until Dec. 29. On Dec. 24, the last day of the 10-day period for Presidential consideration, the President issued a memorandum of disapproval on the bill which he did not deliver to the Senate, although the Secretary of the Senate had previously been authorized to receive such messages during the adjournment.(14)

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11. U.S. Const. art. I, § 1.
12. 302 U.S. 583, 589, 590.
13. 364 F Supp 1075 (D.D.C. 1973), affirmed, 511 F2d 430 (C.A.D.C. 1974).
14. The Secretary of the Senate has been authorized by unanimous consent, on Dec. 22, 1970 [116 Cong. Rec. 43221, 91st Cong. 2d Sess.], to receive messages from the President of the United States during the adjourn-

Senator Edward M. Kennedy, of Massachusetts, a supporter of the bill in the Senate, sought a declaratory judgment in a U.S. district court that S. 3418 had become public law. The court granted the declaratory judgment based on his finding that the Congress by adjourning for the Christmas holidays did not prevent the return of the bill within the meaning of article I, section 7, and that the bill was, therefore, not subject to a pocket veto by the President.

Judge Waddy cited both the *Pocket Veto* and *Wright* cases to support his conclusion. From the *Pocket Veto* case he cited the following language as an underlying rationale for the court's decision in that case:

> "Manifestly it was not intended that instead of returning the bill to the House itself, as required by the constitutional provision, the President should be authorized to deliver it, during an adjournment of the House, to some individual officer or agent not authorized to make any legislative record of its delivery, who should hold it in his own hands for days, weeks, or perhaps months—not only leaving open possible questions as to the date on which it had been delivered to him, or whether it had in fact been delivered to him at all, but keeping the bill in the meantime in a state of suspended animation until the House resumes its sitting, with no certain knowledge on the part of the public as to whether it had or had not been seasonably delivered, and necessarily causing delay in its reconsideration which the Constitution evidently intended to avoid." 279 U.S. at 684.

Judge Waddy then cited the opinion of the Court in the *Wright* case where a direct comment was made on this language:

> "These statements show clearly the sort of dangers which the Court envisaged. However . . . they appear to be illusory when there is a mere temporary recess." 302 U.S. at 595.

Judge Waddy found this reasoning compelling, in spite of the fact that the case before him differed from the *Wright* case in that only one House was in recess in the latter while both Houses were in recess in the former when the 10-day period for Presidential consideration expired:

> ". . . The Senate returned on the third day after the final day for the President to act. The interim two days would have caused no long delay in delivery of the bill; not keeping it in suspended animation. In three days the public would have been promptly and properly informed of the President's objections, and the purposes of the constitutional provisions would have been satisfied."

In the 93d Congress, the President returned a House bill with-

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ment from Dec. 22 to Dec. 28. See also *Procedure in the U.S. House of Representatives* (97th Cong.), Ch. 24 § 12.1.

out his signature to the Clerk of the House, who had been authorized to receive messages from the President during an adjournment to a day certain, and the President asserted in his veto message that he had "pocket vetoed" the bill during the adjournment of the House to a day certain. The House regarded the President's return of the bill without his signature as a veto within the meaning of article I, section 7 of the Constitution and proceeded to reconsider and to pass the bill over the President's veto, after postponing consideration to a subsequent day. Subsequently, on Nov. 21, 1974, the Senate also voted to override the veto and pursuant to 1 USC § 106a the enrolling clerk of the Senate forwarded the bill to the Archives for publication as a public law. The Administrator of General Services at the Archives, upon instructions from the Department of Justice, declined to promulgate the bill as public law on the day received. The question as to the efficacy of the congressional action in passing the bill over the President's veto was mooted when the House and Senate passed on Nov. 26, 1974, an identical bill which was signed into law on Dec. 7, 1974 (Pub. L. No. 93-516). See also *Kennedy* v *Jones,* 412 F Supp 353 (D.D.C. 1976); and for a discussion of the constitutionality of intersession or intrasession pocket vetoes see Kennedy, "Congress, The President, and The Pocket Veto," 63 Va. L. Rev. 355 (1977). See also the most recent edition of the *House Rules and Manual* § 112 (annotation following Art. I, § 7 of the Constitution).

Form of Notification of Pocket Veto

§ 18.1 On the first meeting day of the Senate after the Congress has taken an adjournment to a day certain, the President notified that body of his approval of certain bills and, in the same message, his pocket veto of one bill.

On Apr. 12, 1944,(15) the Senate met after an adjournment that began on Apr. 2. A message from the President was presented announcing that he had approved a bill (S. 662) authorizing pensions for certain physically or mentally helpless children as well as a bill (S. 1243) authorizing the construction and operation of demonstration plants to produce synthetic liquid fuels. In the same message

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15. 90 CONG. REC. 3408, 78th Cong. 2d Sess.

the President announced the pocket veto on Apr. 11, 1944, of the bill (S. 555) for the relief of Almos W. Glasgow.

Parliamentarian's Note: Announcement to the Congress of pocket vetoes have taken various forms. On Apr. 9, 1956, the President transmitted to Congress a copy of a press release announcing his "pocket veto" of a bill (H.R. 3963) for the relief of Ashot and Ophelia Knatzakanian. This press release was attached to a veto message of another bill, but it was not printed in the *Congressional Record.*

§ 18.2 The President pocket vetoed three bills during a two-month adjournment to a day certain, and wrote separate memorandums explaining his reasons for so doing in each instance.

On July 19, 1943,(16) there was recorded in the Journal memorandums of disapproval from the President of three bills he had pocket vetoed. They were: (1) H.R. 986, an act to define misconduct for compensation and pension purposes; (2) H.R. 1712, an act for the relief of Sarah Elizabeth Holliday Foxworth and Ethel Allene Brown Haberfeld; and (3) H.R. 1396, an act making certain regulations with reference to fertilizers or seeds that may be distributed by agencies of the United States.

§ 18.3 The President informed the House that he had withheld his approval of numerous bills during an adjournment to a day certain.

On July 26, 1948,(17) there were received in the House during a period of adjournment several messages from the President announcing his disapproval of numerous bills.

The Congress had adjourned on June 19, 1948, pursuant to House Concurrent Resolution 218, until Dec. 31, 1948. The President's memoranda of disapproval of each of these bills were dated July 2, 1948, more than 10 days (excluding Sunday) after the Congress had adjourned.(18)

§ 19. Proposals for Item Veto

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16. 89 Cong. Rec. 7551, 78th Cong. 1st Sess.

17. 94 Cong. Rec. 9368-73, 80th Cong. 2d Sess.

18. See House bills 851, 1733, 1779, 3499, 1910, 4199, 4590, 6184, and 6818 in Calendars of the United States House of Representatives and History of Legislation, final edition, 80th Cong. (1947-1948).

There is no express authority under the Constitution for the President to approve part of a bill and disapprove another part of the same measure. However, agitation for such authority occasionally has arisen when measures have been presented to the President for his approval which included unrelated provisions, some of which did not have the President's endorsement or support. Members have offered amendments attempting to include a clause in a bill granting the President a veto power with respect to an item in that bill,(19) though the constitutionality of such a proposal has not been determined, but general executive authority to disapprove only part of a bill does not exist. Numerous constitutional amendments have been introduced in the past to grant the President item veto authority, but these proposals have not been adopted.(20) Suggestions have also been made that the Congress address, legislatively, the definition of the term "bill" as used in the Constitution.

Item Veto and Executive Authority

§ 19.1 To an authorization bill for public works, an amendment vesting item veto power in the President was held to be germane and in order.

On Mar. 11, 1958,(1) Mr. Donald E. Tewes, of Wisconsin, offered an amendment to the bill (S. 497) authorizing certain public works on rivers and harbors for purposes of navigation. The amendment gave the President authority to veto certain items provided for in the bill, as follows:

> Sec. 211. For the purpose of disapproval by the President, each paragraph of each of the preceding sections, shall be considered a bill within the meaning of article I, section 7, of the Constitution of the United States, and each such paragraph which is disapproved shall not become law unless repassed in accordance with the provisions of section 7, article I, of the Constitution relating to the repassage of a bill disapproved by the President.

Mr. Frank E. Smith, of Mississippi, raised a point of order against the amendment on the ground that such language is entirely out of order on any type of legislation since there is no provision in the Constitution for an item veto. The Chair(2) responded:

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(19) See §§ 19.1, 19.2, infra.

(20) Charles J. Zinn, The Veto Power of the President, House Committee on the Judiciary, 82d Cong. 2d Sess. (Committee Print 1951), p. 34.

(1) 104 Cong. Rec. 4020, 85th Cong. 2d Sess.

(2) Howard W. Smith (Va.).

> . . . The Chair does not pass upon constitutional questions. The amendment seems to be pertinent to the bill and relates to the bill. Therefore, the Chair overrules the point of order.

§ 19.2 To an appropriation bill, an amendment proposing to give the President item veto power was held to be legislation and not in order.

On May 14, 1953,(3) Mr. Franklin D. Roosevelt, Jr., of New York, proposed an amendment to the Treasury and Post Office Appropriation Act of 1954 (H.R. 5174) giving the President item veto power over each separate appropriation in the bill.

Mr. Gordon Canfield, of New Jersey, raised the point of order against the amendment that it was legislation on an appropriation bill.

The Chairman(4) sustained the point of order on the grounds that the amendment was legislation upon an appropriation bill.

Mr. Roosevelt then offered an amendment stating that each section or item of appropriation in the bill shall be deemed a separate bill for purposes of approval or disapproval by the President.

Mr. Canfield then raised the same point of order that this amendment was legislation on appropriation bill.

The Chairman sustained the point of order for that same reason.

§ 20. Return of Vetoed Bills

The Constitution provides, in article I, section 7, clause 2, that if the President does not sign a bill presented to him ". . . he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it."

It is the usual rule that when a vetoed bill is received in the House from the President, the House proceeds at once to consider it. When a veto message is laid before the House the question of passage is considered as pending(5) and a quorum is required to be present to consider the question.(6)

Presentation of Veto Message to the House

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(3) 99 Cong. Rec. 4939, 4940, 83d Cong. 1st Sess.

(4) Louis E. Graham (Pa.).

(5) See 7 Cannon's Precedents §§ 1097–1099.

(6) *Id.* at § 1094.

§ 20.1 When a bill is vetoed and returned to the House with the President's objections, the veto message is laid before the House, read by the Clerk, and the objections spread at large on the Journal.

On May 28, 1948,(7) the Speaker pro tempore(8) laid before the House the veto message of President Harry Truman on the bill (H.R. 1308) for the relief of H. C. Biering, the message having been received in the House on the previous day shortly before adjournment. The message was read by the Clerk and the President's veto spread on the Journal. By unanimous consent, the bill and the message were referred to the Committee on the Judiciary.

Announcement as to Receipt of Veto Message

§ 20.2 Parliamentarian's Note: Where there are veto messages on the Speaker's desk, he may announce that fact so that the Record and Journal will show the receipt of the messages and to notify the Members that consideration thereof is pending.

On Aug. 2, 1946,(9) the Speaker(10) announced that the Chair had received veto messages on the bills H.R. 4660 and H.R. 6442 and that they would be laid before the House at the proper time.

Veto Messages Received During Adjournment

§ 20.3 When a veto message from the President is received by the Clerk of the House at a time when the House is not in session, the Clerk transmits the sealed envelope containing the message to the Speaker with a letter explaining the circumstances.

On Aug. 31, 1959,(11) the Speaker(12) laid before the House the following communication from the Clerk of the House:

> AUGUST 28, 1959.
>
> The Honorable SPEAKER,
> *House of Representatives.*
>
> SIR: I have the honor to transmit herewith a sealed envelope addressed to the Speaker of the House of Representatives from the President of the United States, received in the Clerk's office at 3:15 p.m. on August 28, 1959,

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7. 94 CONG. REC. 6697, 80th Cong. 2d Sess.
8. Charles A. Halleck (Ind.).
9. 94 CONG. REC. 10744, 79th Cong. 2d Sess.
10. Sam Rayburn (Tex.).
11. 105 CONG. REC. 17397, 86th Cong. 1st Sess.
12. Sam Rayburn (Tex.).

and said to contain a veto message on H.R. 7509, "An act making appropriations for civil functions administered by the Department of the Army, certain agencies of the Department of the Interior, and the Tennessee Valley Authority for the fiscal year ending June 30, 1960, and for other purposes."

Respectfully yours,

RALPH R. ROBERTS,
Clerk, U.S. House of Representatives.

Parliamentarian's Note: H.R. 7509 had been transmitted to the President on Aug. 18, 1959. The 10-day constitutional limitation for a veto would have expired Aug. 29. The House had adjourned from Thursday, Aug. 27, to Monday, Aug. 31, and the Clerk, pursuant to *Wright* v *United States* (302 U.S. 583), had authority to receive and did receive the message during a time when the House was not in session.

Likewise, on July 24, 1961,(13) the Speaker(14) laid before the House the following communication:

JULY 21, 1961.

The Honorable the SPEAKER,
House of Representatives.

SIR: I have the honor to transmit herewith a sealed envelope addressed to the Speaker of the House of Representatives from the President of the United States, received in the Clerk's office at 11:15 a.m. on July 21, 1961, and said to contain a veto message on H.R. 4206, "An act for the relief of Melvin H. Baker and Frances V. Baker."

Respectfully yours,

RALPH R. ROBERTS,
Clerk, U.S. House of Representatives.

Parliamentarian's Note: H.R. 4206 had been transmitted to the President on July 11, 1961. The 10-day period within which the President could veto the bill would have expired on July 22. The House had adjourned from Thursday, July 20, to Monday, July 24, and the Clerk, pursuant to procedure recognized as valid in *Wright* v *United States* (302 U.S. 583), had authority to receive the message during a time when the House was not in session.

§ 20.4 Where the President vetoed several bills during an adjournment period in excess of 10 days, and sent his veto messages to the Clerk of the House, upon reconvening the Speaker laid the messages and bills

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13. 107 CONG. REC. 13151, 87th Cong. 1st Sess.

For other instances see 111 CONG. REC. 14845, 89th Cong. 1st Sess., June 28, 1965; 110 CONG. REC. 21410, 88th Cong. 2d Sess., Sept. 2, 1964; 110 CONG. REC. 6095, 88th Cong. 2d Sess., Mar. 24, 1964; 96 CONG. REC. 9193, 81st Cong. 2d Sess., June 26, 1950; and 86 CONG. REC. 13601, 76th Cong. 3d Sess., Oct. 28, 1940.

14. Sam Rayburn (Tex.).

before the House and referred them to the committees from which they originated.

On Sept. 5, 1945,(15) the Speaker(16) laid before the House the veto messages of the President on five bills(17) received in the House after an adjournment period in excess of 10 days. The Clerk had been authorized on July 21, 1945, to receive messages from the President during the adjournment of the House, which was scheduled to last from July 21 to Oct. 8, 1945. The Congress reconvened on Sept. 5 pursuant to a recall order of its leadership. The Speaker then laid the messages and bills before the House and, by separate motion on each bill, and by unanimous consent, referred them to the committees from which they had originated.

Delivery of Veto Message at Joint Session

§ 20.5 The President personally delivered a veto message to a joint session of the Congress.

On May 22, 1935,(18) President Franklin D. Roosevelt personally addressed a joint session of the Congress in order to deliver his veto message of the bill (H.R. 3896), providing for the immediate payment to veterans of the face value of their adjusted-service certificates. The President addressed both Houses pursuant to House Concurrent Resolution 22. He said, "As to the right and propriety of the President in addressing the Congress in person, I am very certain that I have never in the past disagreed, and will never in the future disagree, with the Senate or the House of Representatives as to the constitutionality of the procedure. With your permission, I should like to continue from time to time to act as my own messenger."

The Senate had considered and passed the concurrent resolution (H. Con. Res. 22) authorizing this joint session on the preceding

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15. 91 Cong. Rec. 8322-24, 79th Cong. 1st Sess.
16. Sam Rayburn (Tex.).
17. The bills were: (1) H.R. 259 for the relief of George Gottlieb; (2) H.R. 3477 authorizing improvement of certain harbors in the interest of commerce and navigation; (3) H.R. 952 for the relief of the Morgan Creamery Company; (4) H.R. 1856 for the relief of Southwestern Drug Company; and (5) H.R. 3549 to provide for the conveyance of certain weather bureau property to Norwich University, Northfield, Vt. All of the veto messages were dated before Aug. 1, 1945, the date on which the Senate adjourned.
18. 79 Cong. Rec. 7993-96, 74th Cong. 1st Sess.

day.(19) Senator Frederick Steiwer, of Oregon, objected to the resolution, observing:

> My objection to the concurrent resolution is that it seeks to involve the Senate in this procedure. It proposes that the Senate shall meet with the House in joint session, and we are told that the veto message of the President, or the objections which the President proposes to make to a bill which Congress has passed shall not be returned to the House, the body in which the legislation was originated, but that it shall be returned to a joint session of both bodies. It is that procedure which I condemn. It is that procedure which I claim is not countenanced by the Constitution. It is in violation of the Constitution of the United States that this legislation should be returned to the joint body rather than to the body in which the legislation originated. It will be in violation of the Constitution if the objections shall be made to the joint body rather than that they should be entered in the Journal of the House by the normal and usual procedure which has been employed in this country for a century and a half.(20)

Senator J. W. Robinson, of Utah, responded:

> The discussion as to what message is to be heard appears to me to be more or less irrelevant. The concurrent resolution provides for a joint session of the two Houses of the Congress to hear such communications as the President shall be pleased to make.
>
> There is no limitation in the Constitution or in the rules of the two Houses on the occasion or the purposes for which joint sessions may be held. Therefore it is entirely within the discretion or judgment of the two Houses when joint sessions shall convene.(21)

Parliamentarian's Note: As its first business upon reconvening following the President's address, the House voted to override the Presidential veto on H.R. 3896.(22) The vote in the Senate on May 23 (legislative day of May 13) failed of a two-thirds majority, so that the veto was sustained.(1)

Notification of Senate Action on Vetoed Bill

§ 20.6 The Senate notifies the House when it passes a Senate bill over a Presidential veto.

On Aug. 13, 1958,(2) the Speaker(3) laid before the House the following message from the Senate:

> IN THE SENATE OF THE
> UNITED STATES,
> *August 12, 1958.*
>
> The Senate having proceeded to reconsider the bill (S. 2266) entitled "An act to provide a method for regulating and fixing wage rates for employees of

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(19) *Id.* at pp. 7896–902, 7943.

(20) *Id.* at p. 7897.

(21) *Id.* at p. 7900.

(22) *Id.* at pp. 7996, 7997.

(1) *Id.* at pp. 8066, 8067.

(2) 104 CONG. REC. 17354, 85th Cong. 2d Sess.

(3) Sam Rayburn (Tex.).

Portsmouth, N.H., Naval Shipyard," returned by the President of the United States with his objections to the Senate, in which it originated, and passed by the Senate on reconsideration of the same, it was

Resolved, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.(4)

Referral of Vetoed Bill Messaged From Senate

§ 20.7 The Senate passed a private bill over the President's veto and messaged it to the House, where it was referred to a committee.

On July 5, 1952,(5) the Speaker(6) laid before the House a bill (S. 827)—passed by the Senate over the President's veto—for the relief of Fred P. Hines.

Mr. Emanuel Celler, of New York, moved that the bill and veto message be referred to the Committee on the Judiciary and ordered printed.

The motion was agreed to.

Correcting Errors in Veto Messages

§ 20.8 The White House, having discovered an error in a veto message transmitted to the House, sent a further message to the House correcting the error.

On May 25, 1960,(7) the Speaker(8) laid before the House a communication from the President of the United States; this message (shown below) was read and referred to the Committee on Ways and Means.

May 23, 1960.

Dear Mr. Speaker: An error appears in my message of disapproval on H.R. 7947, a bill relating to the income tax treatment of nonrefundable capital contributions to Federal National Mortgage Association.

In the last sentence of the second paragraph of my message the word "purchases" should be inserted in lieu of the word "sells".

Sincerely,

Dwight D. Eisenhower.

Return of Veto Message to President

§ 20.9 The House complied with the request of the President that a bill and veto message be returned to him.

On Aug. 1, 1946,(9) the Speaker(10) laid before the House

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4. See also 94 Cong. Rec. 8523, 80th Cong. 2d Sess., June 16, 1948; and 87 Cong. Rec. 6886, 77th Cong. 1st Sess., Aug. 7, 1941.
5. 98 Cong. Rec. 9608, 82d Cong. 2d Sess.
6. Sam Rayburn (Tex.).
7. 106 Cong. Rec. 11060, 86th Cong. 2d Sess.
8. Sam Rayburn (Tex.).
9. 92 Cong. Rec. 10651, 79th Cong. 2d Sess.
10. Sam Rayburn (Tex.).

the following message from the President:

> *To the House of Representatives:*
>
> I hereby request the return of H.R. 3420, a bill "to provide for refunds to railroad employees in certain cases so as to place the various States on an equal basis, under the Railroad Unemployment Insurance Act, with respect to contributions of employees," and my message of July 31 appertaining thereto.
>
> HARRY TRUMAN,
> THE WHITE HOUSE,
> *August 1, 1946.*
>
> THE SPEAKER: Without objection, the request of the President will be complied with, and the Clerk will transmit the papers requested.
>
> There was no objection.

Parliamentarian's Note: The President transmitted to the House three veto messages shortly after the convening of the House on Aug. 1. The Speaker observed that included therewith was an apparent veto of H.R. 3420, although he believed that the President had intended to sign the bill. It was suggested that the President send a message to the House requesting the return of the bill before the veto was laid before the House. Such a message was received from the President, which was laid before the House and agreed to, and the bill H.R. 3420 was returned to the President without ever having been read to the House. It should be noted that if the veto message on H.R. 3420 had been laid before the House and read, then under the precedent established in the Senate on Aug. 15, 1876 (4 Hinds' Precedents § 3521) the message and bill could not have been returned to the President. The above bill was signed by the President on Aug. 2, 1946, and became Public Law No. 79-599 of the 79th Congress.

§ 21. Motions Relating to Vetoes

When a vetoed bill is laid before the House the question of passage, the objections of the President to the contrary notwithstanding, is pending, but motions to refer to committee,(11) to postpone to a day certain, or to lay on the table are in order. Motions of this nature are within the constitutional mandate that the House "shall proceed to reconsider" a vetoed bill.(12)

Motions to take from the table a vetoed bill, or to discharge a

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11. See § 21.1, infra.

12. See U.S. Const. art. I, § 7, clause 2, and 7 Cannon's Precedents §§ 1105, 1114.

vetoed bill from a committee, are privileged.(13)

Precedence of Motion to Refer

§ 21.1 When a vetoed bill is laid before the House and read, a motion to refer to committee takes precedence over the question of passage over the veto.

On Oct. 10, 1940,(14) the Speaker(15) laid before the House the veto message of the President of the bill (H.R. 7179) providing for the naturalization of Louis D. Friedman. Mr. Samuel Dickstein, of New York, moved to refer the bill and veto message to the Committee on Immigration and Naturalization.

Mr. John E. Rankin, of Mississippi, reserved the right to object, saying:

> This bill can only be referred to a committee by unanimous consent.
>
> THE SPEAKER: No; a motion is in order.
>
> MR. RANKIN: I understand [but is it privileged?] Any Member can demand a vote on this at any time, on a President's veto.
>
> THE SPEAKER: A motion to refer to a committee takes preference, of course.
>
> MR. RANKIN: I did not think a motion to refer to a committee was privileged. My understanding is that any Member can demand a vote at any time.
>
> THE SPEAKER: A motion to refer at this stage is a privileged motion and has preference, under the rule.

Effect of Defeat of Motion to Postpone

§ 21.2 Where a motion to postpone further consideration of a veto message to a day certain is defeated, the question recurs, in the absence of any other motion, on passing the bill over the objections of the President.

On Jan. 24, 1936,(16) the Speaker(1) laid before the House the veto message of the President on the bill (H.R. 9870) to provide for the immediate payment of world war adjustment service certificates and for the cancellation of unpaid interest accrued on loans secured by such certificates.

Mr. William B. Bankhead, of Alabama, moved that consideration of the President's message be postponed until the next Monday. After short debate Mr. Bankhead then moved the previous question on his motion. Mr. John E. Rankin, of Mississippi,

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13. See 4 Hinds' Precedents §§ 3532, 3550; and 5 Hinds' Precedents § 5439. See also § 21.8, infra.
14. 86 CONG. REC. 13522, 76th Cong. 3d Sess.
15. Sam Rayburn (Tex.).
16. 80 CONG. REC. 975, 976, 74th Cong. 2d Sess.
1. Joseph W. Byrns (Tenn.).

raised a parliamentary inquiry as to whether a vote on the veto message would be in order if the motion to postpone were defeated:

> MR. RANKIN: And a preferential motion will be in order for an immediate vote on the veto?
>
> THE SPEAKER: It will be the only motion before the House.
>
> The question is on the motion of the gentleman from Alabama [Mr. Bankhead] on the previous question.
>
> The previous question was ordered.
>
> THE SPEAKER: The question now recurs upon the motion of the gentleman from Alabama that further consideration of the veto message be postponed until Monday.
>
> The question was taken; and on a division (demanded by Mr. Bankhead) there were ayes 131 and noes 189.
>
> MR. [JOHN J.] O'CONNOR [of New York]: Mr. Speaker, I demand the yeas and nays.
>
> The yeas and nays were refused.
>
> So the motion was rejected.
>
> THE SPEAKER: The question is, Will the House on reconsideration agree to pass the bill, the objections of the President to the contrary notwithstanding?

Effect of Defeat of Motion to Refer

§ 21.3 When a motion to refer a vetoed bill to a committee is voted down, the question recurs on the passage of the bill over the objections of the President.

On Oct. 10, 1940,(2) the Speaker(3) laid before the House the veto message of the President of the bill (H.R. 7179) providing for the naturalization of Louis D. Friedman. Mr. Samuel Dickstein, of New York, moved that the bill and veto message be referred to the Committee on Immigration and Naturalization.

Mr. John E. Rankin, of Mississippi, raised a parliamentary inquiry as to whether the question before the House would be on the overriding of the veto if the motion to refer was voted down. The Speaker responded that the question of overriding the President's veto would recur if the motion to refer to committee was voted down.

Referral to Committee by Motion

§ 21.4 A veto message from the President may on motion be referred to the originating committee and ordered printed.

On Aug. 14, 1967,(4) the Speaker laid before the House the veto message of the President on the

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2. 86 CONG. REC. 13534, 76th Cong. 3d Sess.
3. Sam Rayburn (Tex.).
4. 113 CONG. REC. 22438, 90th Cong. 1st Sess.

bill (H.R. 11089) to increase life insurance coverage for government employees, officials, and Members of Congress.

Mr. Dominick V. Daniels, of New Jersey, moved that the bill and message be referred to the Committee on Post Office and Civil Service and ordered to be printed.

The motion was agreed to.

Referral to Committee by Unanimous Consent

§ 21.5 A veto message from the President was, by unanimous consent, referred to a committee.

On July 24, 1961,(5) the Speaker(6) laid before the House the veto message of the President on the bill (H.R. 4206) for the relief of Melvin H. Baker and Frances V. Baker. The Speaker stated:

> The objections of the President will be spread at large upon the Journal, and, without objection, the bill and message will be referred to the Committee on the Judiciary and ordered to be printed.
>
> There was no objection.(7)

Objections to Referral

§ 21.6 Where an objection is raised to a unanimous-consent request to refer a veto message to a committee, and the House adjourns without other disposition of the message, the request for referral may be renewed.

On Sept. 13, 1965,(8) the Speaker(9) laid before the House the veto message of the President of the United States on the bill (H.R. 3329) to incorporate the youth councils on civic affairs:

> Without objection, the bill and message will be referred to the Committee on the District of Columbia.
>
> MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, I object.
>
> THE SPEAKER: To what does the gentleman object?
>
> MR. HALL: I object to the reference of the veto message to the committee.

The House then adjourned without further action on the message.

On Sept. 14, 1965,(10) the message and bill were, by unanimous consent, referred to the Committee on the District of Columbia and ordered to be printed.

§ 21.7 A veto message from the President on a bill relating to

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5. 107 CONG. REC. 13151, 13152, 87th Cong. 1st Sess.
6. Sam Rayburn (Tex.).
7. See also 111 CONG. REC. 21244, 21245, 89th Cong. 1st Sess., Aug. 23, 1965; and 105 CONG. REC. 19697, 86th Cong. 1st Sess., Sept. 14, 1959.
8. 111 CONG. REC. 23623, 89th Cong. 1st Sess.
9. John W. McCormack (Mass.).
10. 111 CONG. REC. 23628, 89th Cong. 1st Sess.

certain federal wages was referred to the Committee on Post Office and Civil Service.

On Jan. 2, 1971,(11) the Speaker(12) laid before the House the veto message of the President on the bill (H.R. 17809) to fix the pay practices applied to federal "blue collar" employees. After the Clerk read the veto message, it was, without objection, referred to the Committee on Post Office and Civil Service and ordered to be printed.

Parliamentarian's Note: No member of the Committee on Post Office and Civil Service was available to move that the bill and message be referred to that committee. The Speaker therefore ordered the bill referred on his own initiative.

Motion to Discharge

§ 21.8 A motion to discharge a committee from the consideration of a vetoed bill presents a question of privilege, and such motion is subject to a motion to table.

On Sept. 7, 1965,(13) Mr. Durward G. Hall, of Missouri, addressed the Chair:

> Mr. Speaker, I rise to a question of the highest privilege of the House, based directly on the Constitution and precedents, and offer a motion. . . .
>
> *Resolved,* That the Committee on Armed Services be discharged from further consideration of the bill H.R. 8439, for military construction, with the President's veto thereon, and that the same be now considered.

Mr. L. Mendel Rivers, of South Carolina, moved to lay that motion on the table.

Mr. Hall then raised a parliamentary inquiry:

> Is a highly privileged motion according to the Constitution subject to a motion to table?
>
> THE SPEAKER PRO TEMPORE:(14) It is.

Motion to Postpone

§ 21.9 By motion, the House may postpone to a day certain consideration of a Presidential veto message transmitted from the Senate.

On Apr. 29, 1959,(15) the Speaker(16) laid before the House the veto message of the President of the bill (S. 144) entitled "An Act to Modify Reorganization Plan No. 2 of 1939 and Reorganization Plan No. 2 of 1953," along with a message from the Senate

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11. 116 CONG. REC. 44599, 91st Cong. 2d Sess.
12. John W. McCormack (Mass.).
13. 111 CONG. REC. 22958, 22959, 89th Cong. 1st Sess.
14. Carl Albert (Okla.).
15. 105 CONG. REC. 7027, 86th Cong. 1st Sess.
16. Sam Rayburn (Tex.).

that that body had passed the bill over the President's veto.

Mr. John W. McCormack, of Massachusetts, moved that further consideration of the President's message be postponed until the next day.

The motion was agreed to.(17)

§ 21.10 The motion to postpone further consideration of a veto message to a day certain is privileged and takes precedence over the pending question of passing the bill notwithstanding objections of the President.

On Jan. 27, 1970,(18) the Speaker pro tempore(19) laid before the House the veto message from the President on the bill (H.R. 13111) making appropriations for the Departments of Labor and Health, Education, and Welfare for fiscal year 1970. He then announced that the question before the House was "Will the House on reconsideration pass the bill H.R. 13111, the objections of the President to the contrary notwithstanding?"

Mr. George H. Mahon, of Texas, moved that further consideration of the veto message from the President be postponed until the next day. The Speaker pro tempore recognized him to proceed on his motion.

§ 21.11 Objection having been raised to a unanimous-consent request that a veto message be referred to committee, further proceedings on the message were postponed pursuant to a previous order of the House that the matter be put over until Thursday.

On Tuesday, Oct. 5, 1965,(20) the Speaker pro tempore laid before the House the veto message from the President on the bill (H.R. 5902) for the relief of Cecil Graham:

> THE SPEAKER PRO TEMPORE:(21) The objections of the President will be spread at large upon the Journal.
>
> If there is no objection, the bill and message will be referred to the Committee on the Judiciary and ordered to be printed.
>
> MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, I object.
>
> THE SPEAKER PRO TEMPORE: The gentleman from Iowa objects.

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(17) See also 105 CONG. REC. 17397, 17398, 86th Cong. 1st Sess., Aug. 31, 1959 (postponement for two days by unanimous consent); and 94 CONG. REC. 4133, 80th Cong. 2d Sess., Apr. 6, 1948 (postponement by motion for eight days).

(18) 116 CONG. REC. 1365, 91st Cong. 2d Sess.

(19) Carl Albert (Okla.).

(20) 111 CONG. REC. 25940, 25941, 89th Cong. 1st Sess.

(21) Carl Albert (Okla.).

Under the order of the House of October 1,[22] this matter will be pending business on Thursday, October 7.

Debate on Motion

§ 21.12 Debate on a motion to refer a vetoed bill is under the hour rule, and if the Member recognized yields back a part of his time without moving the previous question another Member is recognized for an hour.

On Oct. 10, 1940,[1] Mr. Samuel Dickstein, of New York, was recognized to move to refer to committee a private bill (H.R. 7179) and the veto message thereon. He was recognized to debate his motion under the hour rule, and after he had consumed 10 minutes, during which he yielded to various other Members for comments and questions, he yielded back the balance of his time. The proceedings were as follows:

> MR. [LEE E.] GEYER of California: Will the gentleman yield?
>
> MR. DICKSTEIN: I yield to the gentleman from California.
>
> MR. GEYER of California: Much has been said rather impugning certain things that the committee has done. It has been stated that the committee is probably too lenient. May I say that I have had bills before that committee involving definite hardship cases on American citizens, and I think the committee is entirely too stringent.
>
> [Here the gavel fell.]
>
> MR. DICKSTEIN: Mr. Speaker, I ask unanimous consent to proceed for 2 additional minutes.
>
> THE SPEAKER:[2] Is there objection to the request of the gentleman from New York [Mr. Dickstein]?
>
> There was no objection.
>
> MR. DICKSTEIN: Mr. Speaker, I want to say to the membership of the House that I have tried the best way I can, as chairman of that committee, to work with every Member of this House. I agree with my good friend from California that sometimes the committee is too strict, sometimes we may be a little lenient, but on the whole I think we are a strict committee. . . . May I say that we should be patient and reasonable. Let us look at it in the proper American light and not from any other point of view.
>
> Mr. Speaker, I yield back the balance of my time.
>
> MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, I ask for recognition.
>
> THE SPEAKER: The time is in control of the gentleman from New York [Mr. Dickstein]. Has the gentleman from

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[22] On Oct. 1, 1965, the Majority Leader asked unanimous consent that any roll call votes, other than on questions of procedure, which might be demanded on either Tuesday or Wednesday, Oct. 5 or 6 (which were religious holidays), be put over until Oct. 7. There was no objection. See 111 CONG. REC. 25796, 25797, 89th Cong. 1st Sess.

[1] 86 CONG. REC. 13523, 13524, 76th Cong. 3d Sess.

[2] Sam Rayburn (Tex.).

New York [Mr. Dickstein] yielded the floor?

Mr. Dickstein: Yes.

The Speaker: The gentleman from Mississippi [Mr. Rankin] is recognized for 1 hour.

Mr. Dickstein: Mr. Speaker, a parliamentary inquiry.

The Speaker: Does the gentleman from Mississippi yield for a parliamentary inquiry?

Mr. Rankin: I yield for a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Dickstein: The gentleman from Mississippi asked me to give him time, which I was good enough to do. I said I would be glad to do it. Had I known I was going to surrender the floor by that, I would not have done it. I did not surrender it. I simply yielded back the balance of my time, and the Record will bear me out.

The Speaker: The Chair distinctly asked the gentleman from New York if he yielded the floor, and his answer was in the affirmative.

Mr. Dickstein: I did not understand.

The Speaker: The gentleman from Mississippi is recognized for 1 hour, if he desires that time.

Parliamentarian's Note: Had Mr. Dickstein moved the previous question after using his 10 minutes, and if that motion had been agreed to, no further debate would have been in order.

§ 22. Consideration and Passage of Vetoed Bills; Voting

Under the Constitution, a vetoed bill becomes law when it is reconsidered and passed by the requisite two-thirds vote in each House.(3) The Supreme Court has held that an affirmative vote of two-thirds of the Members voting, a quorum being present, in each House, is sufficient to override the President's veto.(4)

The vote on the question of passage, the objections of the President to the contrary notwithstanding, must be by the yeas and nays under the express command of the Constitution.(5)

Consideration of a vetoed bill is privileged,(6) and when a vetoed bill is postponed to a day certain

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3. U.S. Const. art. I, § 7, clause 2.
4. *Missouri Pac. Ry. Co.* v *Kansas,* 248 U.S. 276 (1919), citing, at pp. 283, 284; see also 4 Hinds' Precedents §§ 3537, 3538 and 7 Cannon's Precedents § 1111 and *United States* v *Ballin,* 114 U.S. 1 (1892).
5. ". . . But in all such Cases [reconsideration of a veto] the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively." U.S. Const. art. I, § 7, clause 2.
6. U.S. Const., *House Rules and Manual* § 108 (1981); see also § 22.4, infra.

it comes up then as unfinished business.(7)

A vetoed bill is considered under the hour rule(8) and the previous question may be moved at any time.(9)

The motion to reconsider is not in order on the question of overriding a veto.(10)

Veto Message as Unfinished Business

§ 22.1 A veto message is the unfinished business before the House where the consideration of the message has been postponed from the previous day by motion.

On Apr. 30, 1959,(11) the Speaker(12) announced that the unfinished business was the further consideration of the veto of the President of the bill (S. 144), to modify Reorganization Plan No. 2 of 1939 and Reorganization Plan No. 2 of 1953. The question put was:

> Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

§ 22.2 When a veto message postponed to a day certain is announced as the unfinished business, no motion is required from the floor for the consideration of such veto, and the question "Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding" is pending.

On Apr. 14, 1948,(13) the Speaker(14) announced that the unfinished business of the House was the further consideration of the veto message of the President on the bill (H.R. 5052) to exclude certain vendors of newspapers or magazines from provisions of the Social Security Act and the Internal Revenue Code. The proceedings were as follows:

> THE SPEAKER: The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding? . . .
>
> The gentleman from California [Mr. Gearhart] is recognized.
>
> MR. [HERMAN P.] EBERHARTER [of Pennsylvania]: Mr. Speaker, will the gentleman yield?

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7. See §§ 22.1, 22.2, infra.
8. See §§ 22.7, 22.8, infra.
9. See § 22.9, infra.
10. 5 Hinds' Precedents § 5644; and 8 Cannon's Precedents § 2778.
11. 105 CONG. REC. 7200, 86th Cong. 1st Sess. See also 111 CONG. REC. 26242, 89th Cong. 1st Sess., Oct 7, 1965.
12. Sam Rayburn (Tex.).
13. 94 CONG. REC. 4427, 4428, 80th Cong. 2d Sess.
14. Joseph W. Martin, Jr. (Mass.).

MR. [BERTRAND W.] GEARHART: I yield to the gentleman from Pennsylvania.

MR. EBERHARTER: Has the gentleman made a motion to call up the bill?

MR. GEARHART: The Parliamentarian advises me that is not necessary. The Speaker has already stated the issue.

MR. EBERHARTER: I just wanted the record to be certain. I did not hear the gentleman make a motion to call up the bill. . . .

THE SPEAKER: The veto message was originally read on April 6, and the request of the gentleman from California was that it be reread for the information of the House. Previous to that request the Chair had stated that the question before the House was, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The gentleman will proceed.

§ 22.3 Where the House adjourns prior to disposition of a veto message from the President, the bill comes up as unfinished business on the next legislative day.

On Sept. 14, 1965,(15) the Speaker(16) announced:

The unfinished business is the further consideration of the veto message from the President on the bill H.R. 3329 [incorporating the Youth Councils on Civil Affairs]. Without objection the message and the bill will be referred to the Committee on the District of Columbia and ordered to be printed.

There was no objection.

The preceding day, the President's veto message was laid before the House shortly before adjournment. Objection was made to referral of the message and bill to committee.(17) Thus, it was brought up the next day as unfinished business.

Consideration on Calendar Wednesday

§ 22.4 The consideration of a veto message was held to be in order on Calendar Wednesday.

On May 11, 1932,(18) it being Calendar Wednesday, the Speaker(19) laid before the House the veto message of the President of the bill (H.R. 6662) to amend the Tariff Act of 1930:

MR. [WILLIAM H.] STAFFORD [of Wisconsin]: Mr. Speaker, this being Calendar Wednesday, ought not further business be dispensed with before we consider any other business?

THE SPEAKER: Not necessarily.

MR. STAFFORD: This is Holy Wednesday.

MR. [CHARLES R.] CRISP [of Georgia]: Is there any other business under Calendar Wednesday?

MR. STAFFORD: No.

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15. 111 CONG. REC. 23628, 89th Cong. 1st Sess.
16. John W. McCormack (Mass.).
17. 111 CONG. REC. 23623, 89th Cong. 1st Sess.
18. 75 CONG. REC. 10035, 72d Cong. 1st Sess.
19. John N. Garner (Tex.).

Mr. Crisp: Mr. Speaker, to save any question, I move that further business under Calendar Wednesday be dispensed with.

The motion was agreed to.

The Speaker: Let the Chair say, however, in connection with this Calendar Wednesday rule, that it does not suspend the Constitution of the United States, which provides that a veto message of the President shall have immediate consideration. The Clerk will read the message.

Effect of Committee Report

§ 22.5 After referral to the committee in which it originated, a vetoed bill may be reported to the House with the recommendation that it pass over the veto of the President.

On May 18, 1949,(20) Mr. Emanuel Celler, of New York, submitted a privileged report from the Committee on the Judiciary on the bill (H.R. 1036) for the relief of R. C. Owen, R. C. Owen, Jr., and Roy Owen. The bill had been vetoed by the President and referred to the Committee on the Judiciary after delivery of the President's veto message in the House. The Committee on the Judiciary then reported the bill with the recommendation that it pass over the President's veto. The bill did so pass, two-thirds of the House voting in favor thereof.(21)

Likewise, on Aug. 5, 1940,(1) Mr. Hatton W. Sumners, of Texas, submitted the report from the Committee on the Judiciary on the bill (H.R. 7737) providing for intervention by states in certain cases involving the validity of the exercise of federal power.

The bill had been vetoed by the President and on return to the House referred to the Committee on the Judiciary. The committee in turn reported the bill with the recommendation that it pass the objections of the President to the contrary notwithstanding.

The House voted to override the President's veto, with 253 yeas and 46 nays.

Committee Report as Privileged

§ 22.6 Parliamentarian's Note: Reports from committees to which vetoed bills are referred, recommending passage of such bills over a veto, are privileged.

On Aug. 17, 1951,(2) Mr. John E. Rankin, of Mississippi, submitted a privileged report from the Committee on Veterans' Affairs on the bill (H.R. 3193), to establish a pension rate, with the recommendation that such bill pass over the President's veto. The proceedings were as follows:

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(20) 95 Cong. Rec. 6426–30, 81st Cong. 1st Sess.

(21) For an instance where vetoed bill favorably reported from a committee failed of passage, see 86 Cong. Rec. 12615–22, 76th Cong. 3d Sess., Sept. 25, 1940.

(1) 86 Cong. Rec. 9878–84, 76th Cong. 3d Sess.

(2) 97 Cong. Rec. 10197, 10202, 82d Cong. 1st Sess.

> Mr. Rankin: Mr. Speaker, I submit a privileged report from the Committee on Veterans' Affairs on the bill (H.R. 3193) to establish a rate of pension for aid and attendance under part III of Veterans' Regulation No. 1 (a), as amended.
>
> The Clerk read as follows:
>
> > Your Committee on Veterans' Affairs, to whom was referred the bill, H.R. 3193, entitled "A bill to establish a rate of pension for aid and attendance under part III of Veterans' Regulation No. 1 (a), as amended," together with the objections of the President thereto, having reconsidered said bill and the objections of the President thereto, reports the same back to the House with the unanimous recommendation that said bill do pass, the objections of the President to the contrary notwithstanding. . . .
>
> Mr. Rankin: Mr. Speaker, I ask for recognition.
>
> The Speaker:(3) The gentleman from Mississippi is recognized.
>
> Mr. Rankin: Mr. Speaker, I ask unanimous consent to extend my remarks at this point and include letters which I have received . . . supporting this measure and urging the Congress to override the veto. . . .
>
> Mr. Speaker, I move the previous question.
>
> The previous question was ordered.
>
> The Speaker: The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?
>
> Under the Constitution, this vote must be determined by the yeas and nays.
>
> Those in favor of passing the bill, the objections of the President to the contrary notwithstanding, will, when their names are called, vote "aye," those opposed "no."
>
> The Clerk will call the roll.
>
> The question was taken; and there were yeas 318, nays 45, not voting 69. . . .
>
> So, two-thirds having voted in favor thereof, the bill was passed, the objections of the President to the contrary notwithstanding.

Debate

§ 22.7 Debate on the question of passing a bill over the President's veto is under the hour rule and the Member in charge may yield to others for debate in his hour.

On May 17, 1951,(4) the Speaker(5) called up as unfinished business for further consideration a veto message from the President on a bill (H.R. 3096) relating to the aquisition and disposition of land by the armed forces. Mr. Carl Vinson, of Georgia, was rec-

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3. Sam Rayburn (Tex.).

4. 97 Cong. Rec. 5435, 82d Cong. 1st Sess. See also 116 Cong. Rec. 750, 91st Cong. 2d Sess., Jan. 22, 1970.

5. Sam Rayburn (Tex.).

ognized by the Chair. Mr. Vinson raised a parliamentary inquiry:

> Mr. Speaker, do I understand correctly that under the rules of the House I am entitled to 1 hour, during which time I can yield to other Members without, however, yielding the floor?
>
> The Speaker: The gentleman is correct.

§ 22.8 A Member recognized on the question of passage of a bill over the President's veto controls one hour of debate, and he may yield a portion of that time to another Member who may in turn control the allocation of that time to other Members.

On Apr. 10, 1973,(6) the House considered the question of overriding the President's veto on the bill (H.R. 3298), to restore certain water and sewer grant programs. Mr. William R. Poage, of Texas, was recognized for one hour. The proceedings were as follows:

> The Speaker:(7) The gentleman from Texas (Mr. Poage) is recognized for 1 hour.
>
> Mr. Poage: Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Oklahoma, the Speaker of the House of Representatives.
>
> Mr. Albert: Mr. Speaker, I appreciate the fact that the distinguished chairman of the Committee on Agriculture, the gentleman from Texas (Mr. Poage), has yielded to me. I appreciate the years that I served under his leadership on that committee.
>
> In a few minutes, as every Member of this House knows, we will cast one of the critical votes of this session of Congress—critical because of the importance of the subject matter with which we are dealing, and critical because of the challenge which we confront as a law-making body of the Nation. . . .
>
> Mr. Poage: Mr. Speaker, it is my desire to yield half of this time to the gentleman from California (Mr. Teague). I understand that I can only yield to him one time. Is it in order for me at this time to yield him 30 minutes and let him apportion it?
>
> The Speaker Pro Tempore:(8) The gentleman has control of the time. He can yield his time.
>
> Mr. Poage: I yield to the gentleman from California 30 minutes.
>
> Mr. [Charles M.] Teague of California: Mr. Speaker, a parliamentary inquiry.
>
> The Speaker: The gentleman will state it.
>
> Mr. Teague of California: Does that mean that I must use all of my 30 minutes together?
>
> The Speaker: The gentleman may use his time as he sees fit, for purposes of debate only.
>
> Mr. Teague of California: I thank the Speaker.
>
> I yield myself 3 minutes.
>
> Mr. Speaker, I rise in support of the President's veto of H.R. 3298.
>
> It is not easy for me, and I know it is not easy for a great many of Members

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6. 119 Cong. Rec. 11679–91, 93d Cong. 1st Sess.
7. Carl Albert (Okla.).
8. John J. McFall (Calif.).

of the House, to vote to sustain the veto on this bill. I say that because the program that has been affected by the President's action is not, in my opinion, a bad program—it is in fact the best of the several agricultural programs for which the President has impounded funds. . . .

The Speaker: Does the gentleman from California desire to yield further at this time.

Mr. Teague of California: Mr. Speaker, I yield 5 minutes to the gentleman from Ohio [Mr. Harsha].

Mr. [William H.] Harsha: Mr. Speaker, I believe we should make an attempt in this situation to separate rhetoric from the facts and I want to allude now to some of the facts. . . .

Mr. Poage: Mr. Speaker, I yield 5 minutes to the distinguished majority leader, the gentleman from Massachusetts (Mr. O'Neill).

Mr. [Thomas P.] O'Neill [Jr.]: Mr. Speaker, I am speaking today as a window box farmer, as I was referred to by a gentleman from the minority side the other day, but I want to remind my colleagues that this program, very interestingly, passed the House by 297 votes to 54 votes. And it passed the House because the rural water program is crucial for pollution control and health in rural America. . . .

Mr. Teague of California: Mr. Speaker, I yield 5 minutes to the gentleman from Kansas (Mr. Sebelius).

Mr. [Keith G.] Sebelius: Mr. Speaker, I appreciate this opportunity to discuss the Presidential veto of H.R. 3298, legislation to restore the rural water and waste disposal grant program.

I share the conviction that we must restore commonsense to our Federal spending and hold Federal outlays to the ceiling level of $250 billion. However, how we "spend" this limited budget is debatable. It is a matter of priorites. . . .

Mr. Poage: Mr. Speaker, I yield myself my remaining time.

Mr. Speaker, there are two issues involved in our consideration of the President's veto.

The first is the issue of the constitutional division of powers under our tripartite form of Government. Can any President unappropriate funds—the appropriation of which he has previously approved? . . .

Mr. Speaker, I move the previous question.

Two-thirds not having voted in favor of the override, the veto of the President was sustained and the bill was rejected.

Effect of Moving the Previous Question

§ 22.9 The demand for the previous question precludes further debate on the question of passing a bill over a Presidential veto.

On June 16, 1948,[9] the House had under consideration the veto message of the President on a bill (H.R. 6355) making supplemental appropriations for the Federal Security Agency. Mr. Frank B.

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[9] 94 Cong. Rec. 8473, 80th Cong. 2d Sess.

Keefe, of Wisconsin, was recognized to control the debate for one hour. After brief remarks, he immediately moved the previous question. Mr. John J. Rooney, of New York, then raised a parliamentary inquiry:

> Mr. Speaker, under the rules is not the majority granted the privilege of discussing this message?
>
> THE SPEAKER:(10) If the gentleman from Wisconsin withdraws his moving of the previous question it would be in order. Otherwise it is not in order.

Voting by Yeas and Nays

§ 22.10 Under the Constitution, the vote on passage of a bill over the President's veto must be by the yeas and nays.

On May 17, 1951,(11) the House had under consideration the question of overriding the President's veto on a bill (H.R. 3096), relating to the acquisition and disposition of land by the armed forces. Mr. Carl Vinson, of Georgia, moved the previous question. The Chair(12) declared that under the Constitution, the question would have to be determined by the yeas and nays.(13)

Vote Recapitulations and Changes

§ 22.11 Where a yea and nay vote has been announced and a recapitulation is ordered on the question of overriding a Presidential veto, a Member may correct his vote only and may not change it; and corrections in a vote on recapitulation are made after the yeas have been read by the Clerk and then after the nays are read.

On June 17, 1947,(14) the House considered the question of overriding the President's veto on a bill (H.R. 1), to reduce individual income tax payments. After debate a roll call vote was taken pursuant to the constitutional requirement. Mr. Charles A. Halleck, of Indiana, sought a recapitulation of the vote, and the Chair ordered the recapitulation.

Mr. Adolph J. Sabath, of Illinois, raised a parliamentary inquiry:

> Mr. Speaker, a Member having voted one way or the other cannot change his vote on the capitulation?
>
> THE SPEAKER:(15) A Member may correct his vote, but cannot change it.
>
> The Clerk will call the names of those voting "yea."
>
> The Clerk called the names of those voting "yea."

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10. Joseph W. Martin, Jr. (Mass.).
11. 97 CONG. REC. 5444, 82d Cong. 1st Sess.
12. Sam Rayburn (Tex.).
13. U.S. Const. art. I, § 7. See also 97 CONG. REC. 13745, 82d Cong. 1st Sess., Oct. 20, 1951.
14. 93 CONG. REC. 7143, 7144, 80th Cong. 1st Sess.
15. Joseph W. Martin, Jr. (Mass.).

THE SPEAKER: Are there any corrections to be made where any Member was listening and heard his name called as voting "yea" who did not vote "yea?" . . . The Chair hears none.

The Clerk will call the names of those voting "nay."

The Clerk called the names of those voting "nay."

THE SPEAKER: Is there any Member voting "nay" who is incorrectly recorded? . . . The Chair hears none.

Parliamentarian's Note: Since the vote on overriding a veto is now taken by the electronic voting device, a recapitulation is not in order. The Speaker could, of course, order the vote taken by the call of the roll if circumstances warranted.

Pairing of Votes

§ 22.12 Pairs on the question of passage of a bill over a Presidential veto are recorded in the Congressional Record and are arranged in a two to one ratio.

On Aug. 5, 1940,(16) after a roll call vote which sustained the veto of the President of a bill (H.R. 3233) to repeal certain acts of Congress, the Clerk announced the pairing of certain Members on the vote. The *Congressional Record* disclosed the pairs, as follows:

Mr. McDowell and Mr. Ball (to override with Mr. Schwert (to sustain).

Mr. Wolfenden of Pennsylvania and Mr. Osmers (to override) with Mr. Cullen (to sustain).

Mr. Culkin and Mr. Jennings (to override) with Mr. Hook (to sustain).

Mr. Kilburn and Mr. Reece of Tennessee (to override) with Mr. Buckley of New York (to sustain).

§ 23. Disposition of Vetoed Bills After Reconsideration

When a vetoed House bill is reconsidered and passed in the House, the House sends the bill and veto message to the Senate and informs that body that it passed by the constitutional two-thirds vote.(17) When the House fails to pass a bill over the President's veto, the bill and veto message are referred to committee, and the Senate is informed of the action of the House.(18)

A bill enacted over a Presidential veto is sent by the Presiding Officer of the House which last considered it to the Administrator of General Services who receives it for deposit.(1)

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16. 86 CONG. REC. 9889, 9890, 76th Cong. 3d Sess.

17. See § 23.2, infra.

18. See § 23.1, infra

1. 1 USC § 106a (1970 ed.).

Referral to Committee

§ 23.1 Where the House fails to override the President's veto, the veto message and the bill are referred to the committee which originally reported the bill.

On Jan. 28, 1970,(2) the House considered overriding the President's veto of the bill (H.R. 13111) making appropriations for the Departments of Labor and Health, Education, and Welfare for fiscal year 1970. The President's veto was sustained, two-thirds not having voted in favor of overriding it.

The Speaker(3) then announced:

> The message and the bill are referred to the Committee on Appropriations.
>
> The Clerk will notify the Senate of the action of the House.

Note: the form of message sent to the Senate in this situation is as follows:

"The House of Representatives having proceeded to reconsider the bill (H.R. ——) entitled . . . returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was *Resolved*, that the said bill do not pass, two-thirds of the House of Representatives not agreeing to pass the same."

Similarly, on June 11, 1946,(4) the Speaker,(5) laid before the House the veto message of the President of the bill (H.R. 4908) to provide additional facilities for the mediation of labor disputes. The House sustained the President's veto and the Speaker ordered the bill and accompanying papers referred to the Committee on Labor.

§ 23.2 By message the House informed the Senate of the passage of a bill in the House to reduce income taxes over the President's veto.

On Apr. 2, 1948,(6) the following message from the House of Representatives was laid before the Senate:

> IN THE HOUSE OF
> REPRESENTATIVES, U.S.,
> *April 2, 1948.*
>
> The House of Representatives having proceeded to reconsider the bill (H.R. 4790) entitled "An act to reduce individual income-tax payments, and for other purposes," returned by the President of the United States with his ob-

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2. 116 CONG. REC. 1552, 1553, 91st Cong. 2d Sess., Jan. 28, 1970. See also 89 CONG. REC. 7051–55, 78th Cong. 1st Sess., July 2, 1943.
3. John W. McCormack (Mass.).
4. 92 CONG. REC. 6774–78, 79th Cong. 2d Sess.
5. Sam Rayburn (Tex.).
6. 94 CONG. REC. 4018, 80th Cong. 2d Sess.

jections, to the House of Representatives, in which it originated; it was

"*Resolved,* That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same."

Attest:

JOHN ANDREWS,
Clerk.

D. VACATING LEGISLATIVE ACTIONS

§ 24. Procedure

Passage of Bills

§ 24.1 By unanimous consent, the proceedings whereby a bill had been passed were vacated, so that an error in an amendment to the bill could be corrected.

On Feb. 12, 1951,(7) it was announced to the House that during a previous day's proceedings incident to the passage of a bill(8) the Committee of the Whole and the House by separate vote had agreed to a two-page amendment, the second page of which erroneously had not been read by the Clerk. Mr. Wilbur D. Mills, of Arkansas, asked unanimous consent that the proceedings whereby the bill had been passed be vacated and that an amendment to the bill be agreed to.

There was no objection.

Thereupon, the Speaker(9) announced that without objection the proceedings whereby the bill had been passed would be vacated, the amendment read by Mr. Mills agreed to, the bill be considered as engrossed, read a third time and passed, and that a motion to reconsider be laid on the table.

There was no objection.

§ 24.2 By unanimous consent, the House may vacate the proceedings whereby a bill was passed so that the Chair can entertain a motion to recommit.

On Mar. 23, 1970,(10) immediately after a voice vote by the House whereby a bill(11) was passed, the following proceedings occurred:

PARLIAMENTARY INQUIRY

MR. [DONALD M.] FRASER [of Minnesota]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER:(12) The gentleman will state it.

MR. FRASER: I was on my feet seeking recognition for the purpose of making a motion to recommit at the time the Speaker was beginning to move to the point of putting the question.

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7. 97 CONG. REC. 1233, 1234, 82d Cong. 1st Sess.
8. H.R. 1612, to extend the authority of the President to enter into trade agreements under § 310 of the Tariff Act of 1930.
9. Sam Rayburn (Tex.).
10. 116 CONG. REC. 8568, 91st Cong. 2d Sess.
11. H.R. 15728, to authorize the extension of certain naval vessel loans and for other purposes.
12. John W. McCormack (Mass.).

THE SPEAKER: The Chair wants to be absolutely fair. The Chair believes the Members know that.

Without objection, the action taken on the question of the passage of the bill will be vacated.

There was no objection.

Thereupon, a motion to recommit the bill was offered by Mr. Silvio O. Conte, of Massachusetts. The motion was rejected.

§ 24.3 In the situation where the House and Senate have passed similar bills, an action sometimes taken by the House is to amend the Senate bill to conform to the provisions of the House bill, and then to vacate, by unanimous consent, those proceedings whereby the House bill was passed.

On May 18, 1961,(13) Mr. Oren Harris, of Arkansas, asked unanimous consent for the immediate consideration of a Senate bill(14) and then moved to strike out of all its provisions after the enacting clause, and to insert the provisions of a previously passed House bill(15) in lieu thereof. There being no objection, both the bill and an amendment subsequently offered by Mr. Harris were read to the House.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

By unanimous consent the proceedings by which the House bill (H.R. 4614) was passed were vacated, and that bill was laid on the table.

§ 24.4 By unanimous consent, the proceedings whereby a Senate bill had been considered in the House, amended (to include the provisions of a similar House-passed bill), and passed, were vacated, and the bill was indefinitely postponed.

On May 12, 1970,(16) Mr. Don Fuqua, of Florida, asked unanimous consent that the proceedings whereby the House considered, amended, and passed a bill of the Senate(17) be vacated and that

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13. 107 CONG. REC. 8367, 8368, 87th Cong. 1st Sess.

14. S. 610, providing for the establishment of a U.S. Travel Service within the Department of Commerce and a Travel Advisory Board.

15. H.R. 4614.

16. 116 CONG. REC. 15150, 91st Cong. 2d Sess.; see also 116 CONG. REC. 14951-60, 91st Cong. 2d Sess., May 11, 1970, for proceedings incident to the passage of the bill. For a further example see 108 CONG. REC. 18300, 18301, 87th Cong. 2d Sess., Aug. 31, 1962; and 105 CONG. REC. 7313, 86th Cong. 1st Sess., May 4, 1959.

17. S. 2694, to amend the District of Columbia Police and Firemen's Salary

further proceedings on that bill be indefinitely postponed. There was no objection.

Parliamentarian's Note: After passage of the Senate bill it was found that it contained a tax provision and therefore could not under the Constitution originate in the Senate. After vacating the House passage of the Senate bill, the House passed its own bill (H.R. 17138) and sent it to the Senate.

Tabling of Bills

§ 24.5 By unanimous consent, proceedings whereby a House bill had been laid on the table were vacated and the bill was again considered, amended, and passed.

On May 4, 1959,(18) Mr. Oren Harris, of Arkansas, asked unanimous consent that the proceedings whereby a bill(19) was laid on the table be vacated for the purpose of offering an amendment. There was no objection. Thereupon, Mr. Harris moved to strike out all after the enacting clause and insert in lieu thereof an amendment which he sent to the Clerk's desk. The amendment was read to the House, whereupon the following proceedings took place:

> MR. HARRIS: Mr. Speaker, for the information of the Members of the House, I have asked unanimous consent that the proceedings whereby the bill H.R. 5610 was laid on the table, the amendment agreed to, the bill engrossed and read a third time and passed, be vacated, for the purpose of offering an amendment.
>
> The unanimous-consent request was agreed to, and I have offered an amendment, which has just been read.
>
> The amendment to the bill H.R. 5610 which I have just offered strikes out all after the enacting clause and inserts the provisions of the bill that passed the Senate last week. . . .
>
> The necessity for this action is that last week after the House had taken the action it did, we, as usual, when we have a bill from the other body on the same subject on the Speaker's table, asked that that bill be taken from the Speaker's desk, that all after the enacting clause be stricken out, and that the House-passed bill be inserted. That was the usual procedure we followed, and I made the request after the House had taken its action last week. It later developed that that was not the correct action that should have been taken because there are tax provisions in this legislation. The Constitution provides, as you know, that all legislation relating directly to tax measures, revenues, must originate in the House of Representatives. There-

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Act of 1958 and the District of Columbia Teacher's Salary Act of 1955.

18. 105 Cong. Rec. 7310-13, 86th Cong. 1st Sess.

19. H.R. 5610, to amend the Railroad Retirement Act of 1937, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act, so as to provide increases in benefits and for other purposes.

fore, this action to vacate that proceeding is in order to comply with the constitutional provision by passing this legislation in order to accomplish what the House intended last week after it considered this matter rather extensively. . . .

The Speaker [Sam Rayburn, of Texas]: The question is on the amendment.

The amendment was agreed to.

The Speaker: The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The Speaker: The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

Mr. Harris: Mr. Speaker, I ask unanimous consent that the proceedings whereby S. 226, an act to amend the Railroad Retirement Act of 1937, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act, so as to provide increases in benefits, and for other purposes, as amended, was read a third time, and passed, be vacated, and the bill be indefinitely postponed.

The Speaker: Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Parliamentarian's Note: There is no motion in the House to take a measure from the table. A unanimous-consent request to vacate proceedings whereby a measure was laid on the table is the available procedure.

Order That Bill Be Reported

§ 24.6 By unanimous consent, the House vacated proceedings whereby a committee had ordered a bill reported to the House, prior to actual reporting of the bill, so that the committee could consider proposed amendments thereto.

On Dec. 5, 1944,(20) Mr. Schuyler Otis Bland, of Virginia, asked unanimous consent that the proceedings in the Committee on Merchant Marine and Fisheries by which a bill (H.R. 5387) was ordered to be reported to the House be vacated, for the purpose of considering proposed amendments. The following exchange took place:

Mr. [Joseph W.] Martin of Massachusetts: Mr. Speaker, reserving the right to object, what is the request of the gentleman?

Mr. Bland: It is a bill amending section 101(a) of the Merchant Marine Act of 1936. The purpose is to vacate certain proceedings of the committee, which ordered the bill reported.

The Speaker:(1) As the Chair understands, the committee ordered the bill reported, but it has not yet been reported, and the gentleman from Virginia desires it to go back to the com-

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20. 90 Cong. Rec. 8863, 78th Cong. 2d Sess.

1. Sam Rayburn (Tex.).

mittee for further consideration by the committee. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Adoption of Amendments

§ 24.7 By unanimous consent, proceedings in the Committee of the Whole, whereby an amendment to a bill had been adopted, were vacated, and the Chair again asked if any Member desired to debate it.

On Mar. 27, 1947,(2) after the adoption by the Committee of the Whole of an amendment to a pending bill,(3) Mr. John W. McCormack, of Massachusetts, asked unanimous consent that the proceedings by which the amendment had been adopted be vacated. There was no objection to the gentleman's request. Thereupon, the Chairman(4) invited any Member, who so desired, to speak on the amendment. Some debate ensued, at the conclusion of which, the amendment was agreed to.

Agreements to Simple Resolutions

§ 24.8 At the request of the Minority Leader, by unanimous consent, the House agreed to vacate the proceedings whereby it had agreed to a resolution electing minority members to committees of the House, then reconsidered the resolution and agreed to it with an amendment changing the order of names (and thus the seniority on a committee) in the resolution.

On Feb. 3, 1969,(5) the following proceedings occurred in the House:

> MR. GERALD R. FORD [of Michigan]: Mr. Speaker, I ask unanimous consent to vacate the proceedings whereby the House agreed to House Resolution 176(6) on January 29, and ask for its immediate consideration with an amendment which I send to the desk.
>
> THE SPEAKER:(7) Is there objection to the request of the gentleman from Michigan?
>
> There was no objection.

A reading of both the resolution and the amendment offered by Mr. Ford ensued, at the conclusion of which the amendment and the resolution as amended were agreed to. A motion to reconsider was laid on the table.

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2. 93 CONG. REC. 2773, 80th Cong. 1st Sess.
3. H.R. 1, to reduce individual income tax payments.
4. Francis H. Case (S.D.).
5. 115 CONG. REC. 2433, 91st Cong. 1st Sess.
6. H. Res. 176, establishing the order of names on a resolution electing Members to various committees of the House.
7. John W. McCormack (Mass.).

§ 24.9 By unanimous consent, the House vacated the proceedings whereby it had agreed, on a previous day, to a resolution, reconsidered the resolution, and then again agreed to the resolution with a corrective amendment.

On Feb. 3, 1969,(8) Mr. Carl Albert, of Oklahoma, asked unanimous consent to vacate the proceedings whereby the House agreed to a resolution(9) and asked for its immediate reconsideration with an amendment which he sent to the desk. There was no objection to the gentleman's request. Thereupon, both the resolution and the amendment offered by Mr. Albert were read to the House. The amendment and the resolution as amended were agreed to.

Agreement to Concurrent Resolution

§ 24.10 By unanimous consent, the House vacated the proceedings whereby it had agreed to a concurrent resolution with an amendment, again considered the resolution, and agreed to it without an amendment.

On June 22, 1965,(10) Mr. Dante B. Fascell, of Florida, asked unanimous consent that the proceedings whereby a Senate concurrent resolution(11) was amended and agreed to be vacated and that the resolution be considered as agreed to without amendment. There being no objection, it was so ordered.

Passage of Joint Resolution

§ 24.11 A motion to take a matter from the table is not in order in the House; and when a joint resolution has been engrossed, read a third time and passed, and the motion to reconsider laid on the table, the matter can be reopened only by a unanimous-consent request that the proceedings be vacated.

On Feb. 8, 1973,(12) Mr. Harley O. Staggers, of West Virginia, asked for and was granted unanimous consent for the immediate consideration of a joint resolution.(13)

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8. 115 Cong. Rec. 2433, 91st Cong. 1st Sess.
9. H. Res. 177, correcting the name of the Resident Commissioner to correspond with that on the Clerk's official roll.
10. 111 Cong. Rec. 14425, 89th Cong. 1st Sess.
11. S. Con. Res. 36, relating to the 20th anniversary of the United Nations.
12. 119 Cong. Rec. 3929, 3930, 93d Cong. 1st Sess.
13. H.J. Res. 331, to extend the Railway Labor Act.

A reading of the resolution to the House ensued, at the conclusion of which the joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Thereafter, Mr. Staggers, who had been recognized to continue his remarks after passage, yielded for a parliamentary inquiry:

Mr. [Samuel L.] Devine [of Ohio]: Mr. Speaker, a parliamentary inquiry.

The Speaker:[14] The gentleman will state it.

Mr. Devine: It was the understanding of the minority, and I think of a majority of the people on the floor of the House, that when the gentleman from West Virginia made his unanimous-consent request that this bill be brought up, the question was whether or not it could be brought up for immediate consideration without objection. There was no objection, but I am not sure whether I heard the Speaker correctly. The Speaker said that it was engrossed and read a third time and passed.

The Speaker: The gentleman is correct. The Chair had no knowledge of any other procedure. The only procedure the Chair had in his knowledge was it was going to be called up by a unanimous-consent request. Then the Chair said, "without objection, the bill is engrossed, read a third time, and passed." Any Member during that entire procedure could have objected if he desired to do so.

Mr. Devine: Is the gentleman from West Virginia now making a statement after the fact, or is this in support of the bill already passed?

The Speaker: The gentleman . . . is doing what is often done on a unanimous-consent bill, and that is explain the bill to the House after passage.

Mr. Staggers: Mr. Speaker, I ask for 5 minutes to explain and say to the gentleman from Ohio that I did not intend for this to be in this fashion; that I thought I would ask for unanimous consent to bring it to the floor, and that was my intent. The Speaker did make a statement that the bill was engrossed, read a third time, and passed.

Mr. Devine: Mr. Speaker, a further parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Devine: In view of the statement made by the chairman of the committee that he had no intention that it be brought up under that set of circumstances, and the fact that the Chair has stated that a motion to reconsider has been laid on the table, I would ask the Speaker if a motion would not be in order to remove from the table the motion for reconsideration.

The Speaker: It takes unanimous consent to vacate the proceedings by which a motion to reconsider was laid on the table.

Mr. Devine: Mr. Speaker, I ask, therefore, unanimous consent to vacate the order of the Chair in connection with this legislation.

The Speaker: The gentleman from Ohio has asked unanimous consent that the proceedings by which the joint resolution was engrossed, read a third time, and passed, and the motion to reconsider laid upon the table, be vacated.

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[14] Carl Albert (Okla.).

Is there objection to the request of the gentleman from Ohio?

There was no objection. Subsequently, the request for the immediate consideration of the House joint resolution was withdrawn.

Thereupon, without objection, Senate Joint Resolution 59, which had been delivered to the House during discussion of House Joint Resolution 331, and which also dealt with the Railway Labor Act, and differed little from the House joint resolution, was brought before the House for immediate consideration. After Senate Joint Resolution 59 had been read, Mr. Staggers explained the points wherein it differed from the House joint resolution earlier considered, and offered an amendment to the Senate joint resolution. The amendment was agreed to. Senate Joint Resolution 59 was then ordered read a third time, was read the third time, and passed, and a motion to reconsider laid on the table.(15)

Postponement of Joint Resolution

§ 24.12 By unanimous consent, the proceedings whereby a joint resolution had been indefinitely postponed were vacated and the resolution restored to the Consent Calendar.

On Jan. 6, 1936,(16) the Clerk called Senate Joint Resolution 118, providing for the filling of a vacancy on the Board of Regents of the Smithsonian Institution of the class other than Members of Congress. By unanimous consent, the Senate joint resolution was indefinitely postponed.

On Feb. 3, 1936,(17) Mr. Kent E. Keller, of Illinois, the same Member who had requested that the Senate joint resolution be postponed indefinitely on Jan. 6, 1936, requested unanimous consent that those proceedings be vacated:

Mr. Keller: Mr. Speaker, I ask unanimous consent to vacate the proceedings by which Senate Joint Resolution 118, providing for the appointment of Mr. Morris, a member of the Board of Regents was indefinitely postponed, and reinstate the same on the calendar.

The Speaker:(18) Is there objection?

There was no objection.

Subsequently, on Feb. 17, 1936,(19) after the Clerk's call of

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15. 119 Cong. Rec. 3933-35, 93d Cong. 1st Sess., Feb. 8, 1973.

16. 80 Cong. Rec. 112, 74th Cong. 2d Sess.

17. 80 Cong. Rec. 1381, 74th Cong. 2d Sess.

18. Joseph W. Byrns (Tenn.).

19. 80 Cong. Rec. 2224, 74th Cong. 2d Sess.

Senate Joint Resolution 118, the following proceedings occurred:

The Speaker: Is there objection [to the consideration of the resolution]?

Mr. [Jesse P.] Wolcott [of Michigan]: Reserving the right to object, this is the first time this has been on the Consent Calendar. This is numbered 375. I would like to ask the Chair how it got on the calendar?

The Speaker: The Chair is informed that this joint resolution was indefinitely postponed and later the gentleman from Illinois [Mr. Keller] asked unanimous consent that the proceedings be vacated and the joint resolution restored to the calendar. That request was granted and the joint resolution was restored to the calendar by the order of the House.

Is there objection to the consideration of the joint resolution?

There was no objection.

CHAPTER 25

Appropriation Bills

A. Introductory Matters; Authorization of Appropriations

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§ 13. House-Senate Relations

Commentary and editing by David Bird, J.D., and John Darrouzet, J.D.

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Appropriation Bills

A. INTRODUCTORY MATTERS; AUTHORIZATION OF APPROPRIATIONS

§ 1. Scope of Chapter

This chapter discusses consideration of appropriation bills on the floor, beginning with procedures for reporting and calling up such bills.(1) The requirement that appropriations contained in general appropriation bills must have been previously authorized by law is discussed in a general way; but detailed treatment of the prohibition against unauthorized appropriations and legislation on general appropriation bills is to be found in a separate chapter.(2)

Matters relating to the duties, prerogatives, and jurisdiction of the Committee on Appropriations are discussed in the chapter on committees of the House.(3) Discussion of referral of bills to committees is accordingly to be found in that chapter, although additional related precedents may be found in the chapter on introduction and reference of bills.(4) It may be noted for present purposes that the Committee on Appropriations has jurisdiction over all general appropriation bills.

Similarly, issues related to committee hearings and various oversight functions of the Committee on Appropriations are to some extent covered in the chapter on committees; procedures and issues that have developed too recently for inclusion in this edition will be taken up in supplements to this edition as they appear. Accordingly, the general oversight responsibilities of the committee with respect to conducting studies and examinations of the organiza-

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1. For earlier treatment of the subject matter of this chapter, see 4 Hinds' Precedents §§ 3553–3700; 7 Cannon's Precedents §§ 1116–1331, 1571–1578.
2. Ch. 26, infra.
3. Ch. 17, supra. Similarly, this chapter does not treat in any detail the various powers and prerogatives of the House, including any constitutional restrictions affecting appropriations for particular purposes, such as the constitutional stricture (see art. I § 8 clause 12) that no appropriation of money "to raise and support armies" shall be for a longer term than two years. Matters relating to the powers and prerogatives of the House, generally, including House authority with respect to revenue and appropriation measures, are treated in Ch. 13, supra.
4. Ch. 16, supra.

tion and operation of executive departments and agencies are not discussed at length here. Moreover, the hearings on the budget as a whole which are conducted by the committee in open session within 30 days of submission of the budget are not covered in any detail in this chapter.

In particular, procedures under the Congressional Budget Act of 1974, and the impact of such act on the congressional budget process and on the role of the Committee on Appropriations, are necessarily given only limited treatment in this edition. A summary of the act's major provisions can be found in the chapter on the powers and prerogatives of the House.(5)

At this point, it is clear that the impact of the Congressional Budget Act on the appropriations process and on the responsibilities of the Committee on Appropriations will be considerable. For example, the committee is given certain responsibilities with respect to rescissions of appropriations, transfers of unexpended balances, and the amount of new spending authority to be effective for a fiscal year. Its responsibilities extend to measures reported by other committees which exceed the appropriate allocation of new budget authority contained in the latest concurrent resolution on the budget for the fiscal year (the resolution setting forth, among other things, appropriate levels of budget outlays and of total new budget authority).

New provisions also require the Committee on Appropriations (to the extent practicable), before reporting the first regular appropriation bill for the fiscal year, to complete subcommittee markup and full committee action on all regular appropriation bills for that year, and to submit to the House a summary report comparing the committee's recommendations with provisions of the latest concurrent resolution on the budget.(6)

§ 2. Requirement That Appropriations Be Authorized

The Constitution(7) states: "No money shall be drawn from the

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5. Ch. 13, supra. See *House Rules and Manual* §§ 1007-11 (1981) for provisions from the Congressional Budget Act.

6. For further discussion of the above provisions, see materials contained in the latest edition of the *House Rules and Manual,* and supplements to this edition of *Deschler's Precedents.* See also the summary of Budget Act provisions in Ch. 13, supra.

7. Art. I § 9 clause 7.

Treasury, but in consequence of appropriations made by law." Appropriation bills are the device through which money is permitted to be "drawn from the Treasury" for expenditure.

But before a general appropriation bill may appropriate funds for particular purposes, such purposes must be authorized by law. Thus, an appropriation for a project or activity not authorized by law is not in order on a general appropriation bill, and a point of order may be made against an appropriation that violates this requirement.(8)

It can be seen that every "authorization" for an appropriation is only one step in the process by which funds ultimately may become available, since it contemplates subsequent action through appropriation measures.(9) Of course, the House may decline to appropriate funds for particular purposes, even though authorization has been given for such purposes.(10)

The enactment of authorizing legislation must occur prior to, and not following, the consideration of an appropriation for the proposed purpose. Thus, delaying the availability of an appropriation pending enactment of an authorization will not protect that appropriation against a point of order.(11) A bill violates the intent of the requirement if it permits a portion of a lump sum—unauthorized at the time the bill is being considered—to subsequently become available without a further appropriation upon the enactment of authorizing legislation.

The "authorization" for an appropriation must ordinarily derive from statute. An executive order, for example, does not constitute sufficient authorization in the absence of proof of its derivation

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8. The prohibition against unauthorized appropriations and legislation on general appropriation bills is found in Rule XXI clause 2, *House Rules and Manual* § 834 (1981). The application of this rule is discussed in detail in Ch. 26, infra.

9. *Parliamentarian's Note:* It follows, for example, that "authorizing" language does not itself constitute "new spending authority" which would prohibit the consideration of a bill under § 401 of the Congressional Budget Act. Where the provision in question either impliedly contemplates further recourse to the appropriations process, or makes express reference to the appropriations process when required by § 401, such consideration is not precluded. (Note: The Budget Act is necessarily given only limited treatment herein; see the remarks in § 1, supra, as to the scope of this article.)

10. See § 2.1, infra.

11. 118 CONG. REC. 14455, 92d Cong. 2d Sess., Apr. 26, 1972.

from a statute enacted by Congress.(12) On the other hand, sufficient "authorization" for an appropriation may be found to exist in a treaty that has been ratified by both parties;(13) in a resolution of the House of the same Congress;(14) or in legislation contained in a previous appropriation act which has been allowed to become permanent law.(15)

An appropriation in excess of the specific amount authorized by law is in violation of the rule prohibiting unauthorized appropriations.(16)

The rule prohibiting unauthorized appropriations and legislation on general appropriation bills was originally intended primarily to prevent any delay of appropriation bills that might arise from contention over propositions of legislation. However, as the authorization process itself became more complicated over the years, and as the number of programs requiring annual authorization increased, there were frequent instances where the congressional appropriations process remained uncompleted at the beginning of a new fiscal year. The rule as currently implemented serves the purpose of giving legislative committees the first opportunity to determine and report to both Houses on priorities within specific legislative programs and the conditions under which available funds may be expended, before the Appropriations Committee recommends allocations of available revenues among various legislative priorities during a given fiscal year. Procedures under the Congressional Budget Act generally contemplate authorization of expenditures by legislative committees as a prior step in the budget process. [See, for example, Congressional Budget Act §§ 301(c) and 402(a).]

It should be emphasized that the rule applies to "general appropriation bills." Neither a resolution providing an appropriation for a single government agency,(17) nor a joint resolution containing continuing appropriations for diverse agencies (to provide funds until regular appropriation bills are enacted),(18) is

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12. See 119 Cong. Rec. 19855, 93d Cong. 1st Sess., June 15, 1973 (proceedings related to H.R. 8619). See also §§ 2.3, 2.4, infra.
13. See 4 Hinds' Precedents § 3587.
14. See 4 Hinds' Precedents §§ 3656–3658, 3660.
15. See § 2.5, infra.
16. See Ch. 26, infra.

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17. 108 Cong. Rec. 1352, 87th Cong 2d Sess., Jan. 31, 1962.
18. See *Procedure in the U.S. House of Representatives* Ch. 25 § 2.2 (4th ed.).

considered a general appropriation bill within the purview of the rule. In fact, the restrictions against unauthorized items or legislation in a general appropriation bill or amendment thereto are not applicable to a joint resolution continuing appropriations, despite inclusion of diverse appropriations which are not "continuing" in nature.(1)

Refusal to Appropriate for Authorized Purposes

§ 2.1 The House in the Committee of the Whole has the right to refuse to appropriate for any object either in whole or in part, even though that object may be authorized by law.

On Feb. 18, 1938,(2) during consideration of the State, Justice, Commerce, and Labor appropriations for 1939 (H.R. 9544), an amendment was offered as follows:

> Amendment offered by Mr. Tarver: On page 104, after line 25, insert a new paragraph, as follows:
>
> No part of any appropriation contained in this act for the Immigration and Naturalization Service shall be expended for any expense incident to any procedure by suggestion or otherwise, for the admission to any foreign country of any alien unlawfully in the United States for the purpose of endeavoring to secure a visa for readmission to the United States, or for the salary of any employee charged with any duty in connection with the readmission to the United States of any such alien without visa.

The following proceedings then took place:

MR. [SAMUEL] DICKSTEIN [of New York]: Mr. Chairman, I make the same point of order. This comes right back to the point I made originally, that this provision deals with the present immigration laws and is legislation on an appropriation bill. It changes our present act, which contains the provision that it is mandatory upon the officials of the Department of Labor to advise an alien of his status, whether he is legally or illegally in this country. This provision seems to suggest that even a suggestion or an inference, even a suggestion over the phone, would be a violation of the law, and the men who are on the pay roll of the Government would be penalized. I respectfully submit that the language offered as the amendment to the new section is absolutely in the same category, and that it is not germane to the present bill or to the section now under consideration.

THE CHAIRMAN:(3) The Chair is ready to rule.

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1. See *Procedure in the U.S. House of Representatives* Ch. 25 § 2.3 (4th ed.).
2. 83 CONG. REC. 2174, 2175, 75th Cong. 3d Sess. The principle is well established. See also, for example, 88 CONG. REC. 2114, 2115, 77th Cong. 2d Sess., Mar. 9, 1942 (a refusal to appropriate above a certain amount per designated recipient).
3. Frank H. Buck (Calif.).

The gentleman from New York [Mr. Dickstein] makes the point of order that the amendment now suggested and offered by the gentleman from Georgia is legislation. The Chair feels he is bound by precedents which have been established for a long time in this House and have been ruled upon by many occupants of the chair more distinguished than he.

The fact that the failure to appropriate money to carry out the purposes of an act may work an actual hardship in the enforcement of that act or may even effect the practical repeal or certain provisions of the act is entirely within the discretion of Congress itself. Congress does not have to appropriate any money for laws which have been authorized by bills reported from legislative committees. As long ago as 1896 Nelson Dingley, Chairman of the Committee of the Whole House, ruled as follows, and I read from page 47 of Cannon's Procedure in the House of Representatives:

> The House in Committee of the Whole House has the right to refuse to appropriate for any object either in whole or in part even though that object may be authorized by law. That principle of limitation has been sustained so repeatedly that it may be regarded as a part of the parliamentary law of the Committee of the Whole.

Therefore, the Chair is unable to agree with the contention of the gentleman from New York and overrules the point of order.

Court Judgment as Authorization

§ 2.2 An appropriation to pay a judgment awarded by a court is not in order unless such judgment has been properly certified to Congress.

On June 20, 1935,[4] the Committee of the Whole was considering H.R. 8554, a deficiency appropriation bill. The following proceedings took place:

MR. [FRANK] CARLSON [of Kansas]: Mr. Chairman, I offer an amendment, which I send to the desk.

The Clerk read as follows:

> Mr. Carlson moves to amend H.R. 8554, page 6, by inserting a new paragraph following line 6, entitled "Federal Trade Commission":
>
> "For payment to Mrs. William E. Humphrey, or executor of the estate of William E. Humphrey, $3,017 amount due as salary at time of his death as member of Federal Trade Commission."

MR. [JAMES P.] BUCHANAN [of Texas]: Mr. Chairman, I make the point of order that the amendment is new legislation in that the judgment has not been certified according to law. . . .

THE CHAIRMAN:[5] The Chair is ready to rule. Under the law,[6] judgments have to be certified to the Congress before an appropriation is made; therefore the Chair sustains the point of order.

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[4] 79 CONG. REC. 9811, 74th Cong. 1st Sess.

[5] Franklin W. Hancock, Jr. (N.C.).

[6] The Chair apparently relied on provisions governing procedures whereby claimants obtaining judgments against the United States are compensated from appropriations made for that purpose. See, for example, the present 28 USC § 2518 (based on 26 Stat. 537, Sept. 30, 1890 and 43 Stat. 939, Feb. 13, 1925), regarding certification to Congress of judgments of the Court of Claims; see also 28

Executive Order as Authorization

§ 2.3 The words "authorized by law" in Rule XXI clause 2, were construed to refer to a "law enacted by the Congress," and not to encompass executive orders.

On Mar. 2, 1945,(7) the Committee of the Whole was considering H.R. 2374, a deficiency appropriation bill. At one point the Clerk read as follows:

WAR RELOCATION AUTHORITY

Salaries and expenses: The limitation in the appropriation for salaries and expenses, War Relocation Authority, in the National War Agency Appropriation Act, 1945, on the amount which may be expended for travel is hereby increased from $375,000 to $475,000; *and of said appropriation not to exceed $280,477 is made available for expenses incurred during the fiscal year 1945 incident to the establishment, maintenance, and operation of the emergency refugee shelter at Fort Ontario, N.Y., provided for in the President's message of June 12, 1944, to the Congress (H. Doc. 656).*

MR. [HENRY C.] DWORSHAK [of Idaho]: Mr. Chairman, I make the point of order against that part of the section following the semicolon in line 20 and ending on page 14, line 2, that it is legislation on an appropriation bill; furthermore, that there is no specific authority in existing statutes for the operation of this particular program. The Executive order of the President which created the War Relocation Authority does not encompass the activities for which these funds would be used. . . .

THE CHAIRMAN:(8) The Chair is prepared to rule.

The gentleman from Idaho [Mr. Dworshak] makes the point of order against the language beginning in the concluding part of line 20 on page 13 and extending through the balance of the paragraph, that this appropriation is not authorized by law.

Under the rules of the House, no appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law.

It is the opinion of the Chair that an Executive order does not meet the re-

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USC § 2517 (payment of judgments of the Court of Claims out of general appropriations therefor); 28 USC § 2414 (payment of judgments and compromise settlements on claims against the United States); 31 USC § 724a (permanent appropriation to pay final judgments, awards, and compromise settlements); 28 USC §§ 2671 et seq. (tort claims procedure); and House Rule XXII clause 2, *House Rules and Manual* § 852 (1981) (prohibiting private bills and resolutions, and amendments to bills and resolutions, authorizing payment of claims for which suit may be instituted under tort claims procedure).

7. 91 CONG. REC. 1682, 1683, 79th Cong. 1st Sess.

8. John J. Sparkman (Ala.).

quirement stated in that rule. Therefore, not being authorized by law enacted by Congress, the appropriation would not be in order. The mere fact that it may be a reappropriation would not make it in order if the original appropriation was not authorized by law.

Therefore, the Chair sustains the point of order made by the gentleman from Idaho.

§ 2.4 An executive order does not meet the requirement that appropriations must be authorized by law.

On July 5, 1945,(9) the following proceedings took place:

MR. [CLARENCE] CANNON of Missouri: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3649), making appropriations for war agencies for the fiscal year ending June 30, 1946, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent to dispense with general debate in the Committee of the Whole. . . .

THE SPEAKER:(10) The question is on the motion offered by the gentleman from Missouri.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3649) with Mr. Sparkman in the chair. . . .

MR. CANNON of Missouri: Mr. Chairman, I ask unanimous consent that the bill be considered as read and that all Members desiring to submit amendments or points of order have leave to submit them at this time.

THE CHAIRMAN:(11) Is there objection to the request of the gentleman from Missouri?

There was no objection.

MR. [VITO] MARCANTONIO [of New York]: Mr. Chairman, in view of the unanimous consent request that has just been granted, I make the point of order against the first item, National War Labor Board, on the ground that it is an appropriation not authorized by law.

MR. CANNON of Missouri: Mr. Chairman, I concede the point of order.

THE CHAIRMAN: The point of order is sustained.

MR. MARCANTONIO: Mr. Chairman, I make a point of order on the same ground against the item for the Office of Defense Transportation on page 5.

MR. CANNON of Missouri: The point of order is conceded, Mr. Chairman.

THE CHAIRMAN: The gentleman from New York [Mr. Marcantonio] makes a point of order which the gentleman from Missouri [Mr. Cannon] concedes. The Chair sustains the point of order.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, we do not all have to concede the point of order. I want to ask the gentleman from Missouri a question. . . .

MR. RANKIN: . . . If these were times of peace and this agency had been created by the Executive order, as it was, I submit that a point of order would lie against it. But the President of the United States is the commander in

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9. 91 CONG. REC. 7226, 7227, 79th Cong. 1st Sess.

10. Sam Rayburn (Tex.).

11. John J. Sparkman (Ala.).

chief of the armed forces. One of the necessary incidents to that position is the ability and the power to see that our troops and the materials to support them are transported. For that reason, in order to break a bottleneck in our transportation system, the President of the United States set up the Office of Defense Transportation. . . .

THE CHAIRMAN: The Chairman again states his opinion, regardless of his own beliefs as to the merits of this particular office, that the point of order must be sustained.

The rule is very explicit to the effect that no appropriation shall be reported in any general appropriation bill or be in order as an amendment thereto, for any expenditure not previously authorized by law.

In this present Congress, the present occupant of the chair ruled that an Executive order was not a law such as could comply with this rule.[12]

The Chair sees no reason for departing from that holding. The Chair feels constrained to sustain the point of order.

The point of order is sustained.[13]

Language in Prior Appropriation Measure as Authorization

§ 2.5 Legislation in an appropriation bill may be subject to a point of order under Rule XXI clause 2, but it may become permanent law if it is not challenged and is permanent in its language and nature; thus, language in a previous appropriation act providing that "hereafter such sums . . . as may be approved by Congress shall be available (to increase domestic consumption of farm commodities)," was held to be permanent authorizing legislation capable of supporting subsequent appropriations therefor.

On May 20, 1964,[14] during consideration in the Committee of the Whole of the agriculture appropriations bill (H.R. 11202) for fiscal 1965, Mr. Paul Findley, of Illinois, raised a point of order as follows:

MR. FINDLEY: My point of order is to lines 3 through 9, the portion of the section beginning with the figure in parentheses 5. I will read it. It reads as follows:

> (5) not in excess of $25,000,000 to be used to increase domestic consumption of farm commodities pursuant to authority contained in Public Law 88-250, the Department of Agriculture and Related Agencies Appropriation Act, 1964, of which amount $2,000,000 shall remain available until expended for construction, alteration and modification of research facilities.

There is legislation in an appropriation bill. . . .

THE CHAIRMAN:[15] The Chair is ready to rule. The gentleman from Illinois [Mr. Findley] makes a point of order addressed to the language appearing on page 16, line 2, beginning with "and" and continuing through and including line 9, on the ground that it is legislation on an appropriation bill.

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[12] See § 2.3, supra.

[13] See also 119 CONG. REC. 19855, 93d Cong. 1st Sess., June 15, 1973 (H.R. 8619).

[14] 110 CONG. REC. 11422, 11423, 88th Cong. 2d Sess.

[15] Eugene J. Keogh (N.Y.).

The Chair has had called to its attention the section which was contained in Public Law 88-250, in which it appears that the appropriation here, which incidentally is also in the nature of a limitation, was authorized by the Congress by the inclusion of the words pointed out by the gentleman from Mississippi that "hereafter such sums (not in excess of $25,000,000 in any one year) as may be approved by the Congress shall be available for such purpose," and so forth.

The Chair therefore holds that the language in that public law cited is authority for the inclusion in the pending bill of the language to which the point of order was addressed, and therefore overrules the point of order.

§ 2.6 A point of order having been raised that a portion of a lump sum supplemental appropriation for the White House was not authorized by law, the Chairman determined that the permanent law authorizing the President to appoint certain staff, as well as legislative provisions authorizing additional employment contained in an earlier regular appropriation bill enacted for that fiscal year, constituted sufficient authorization.

On Nov. 30, 1973,(16) during consideration in the Committee of the Whole of a supplemental appropriation bill (H.R. 11576) a point of order was raised against a provision, as follows:

The Clerk read as follows:

THE WHITE HOUSE OFFICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,500,000.

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, a point of order. . . .

I raise a point of order to the language of lines 5, 6, 7, and 8 of page 14 under the provisions of rule XXI, clause 2, which prohibits legislation on appropriation bills and which prohibits the appropriation of funds without prior legislative authorization.

Mr. Chairman, I would now like to read from the language of the committee's report on White House office, salaries and expenses:

> The Committee recommends an appropriation of $1,500,000, a reduction of $110,000 below the amount of the budget estimate.
>
> These supplemental funds were requested to provide the additional funds needed for the activities of the Counselors to the President and their staffs, the President's Foreign Intelligence Advisory Board, the President's Special Assistant for Consumer Affairs, the Council on Economic Policy, and other professional staff and consultants.

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16. 119 CONG. REC. 38854, 38855, 93d Cong. 1st Sess.

Mr. Chairman, before I pursue this matter further, I would point out first of all that when an item in an appropriation bill is defective as violative of the rules of the House—in this instance, Rule XXI, clause 2—the whole of the particular item under the point of order falls.

I would point out further, Mr. Chairman, that my point of order is directed specifically to the President's special assistant for consumer affairs and to that office, which was challenged earlier on this floor this year by the gentleman from Iowa (Mr. Gross). Upon his point of order the Chair acted affirmatively and ruled in support of the point of order and ruled out the item.

I challenge further on the same grounds, Mr. Chairman, the appropriations for counsellor to the President in that there is no statutory authority for counsellors to the President. I challenge further the President's foreign intelligence advisory board in that there is also, to my knowledge, no statutory authority for this particular office.

Also, Mr. Chairman, I challenge on the same grounds again the counsel on economic policy of the President and his staff and offices, appurtenances and expenditures pertinent thereto. I would point out further, Mr. Chairman, that under the rules of the House of Representatives, that the burden is upon the proponent of the appropriation bill to establish the legislative basis and to cite the statutes upon which the Appropriations Committee bases its action in appropriating funds. . . .

THE CHAIRMAN:[17] . . . Sections 103, 105, and 106 of title 3 authorize appropriations for the purpose of paying the salaries of certain persons in the Executive Office of the President. The appropriation bill itself, in the paragraph beginning on page 14, line 5, gives no indication that the appropriation would be used for any unauthorized purpose. The paragraph merely provides a lump sum for the Executive Office.

The gentleman from Michigan, in making his point of order, goes beyond the provisions of the bill and looks at the provisions of the committee report.

The Chair does not believe that in this case, any more than in the case made by the gentleman from Iowa earlier in the consideration of the bill, it is within his province to go beyond the plain provisions of the bill, and the authorizing statute.

The Chair, therefore, overrules the point of order.

Parliamentarian's Note: The earlier ruling cited by Mr. Dingell had taken place on June 15, 1973. Chairman James C. Wright, Jr., of Texas, had sustained a point of order against an appropriation for the Office of Consumer Affairs, established by executive order, where the Committee on Appropriations had not cited statutory authority for the appropriation (contained in H.R. 8619, agriculture-environment and consumer protection appropriations bill).

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[17] James G. O'Hara (Mich.).

Congress subsequently enacted Public Law No. 93-143, the Treasury, Executive Office Appropriations Act for fiscal 1974, containing funds for the White House Office and legislation, effective for the same fiscal year covered by the supplemental appropriation bill, permitting the President to employ consultants notwithstanding other provisions of law. For that reason, and because it was not readily apparent from the language of either the supplemental bill, the authorizing statute, or the committee report that a portion of the lump sum was to fund an unauthorized office, the Chair overruled the point of order.

Appropriation Bill as Containing Specific Approval

§ 2.7 The restriction in law prohibiting the use of any funds for the preparation of final plans or for construction of the west front extension "until specifically approved and appropriated therefor by the Congress" was held not to require legislative "approval" prior to the appropriation, where the legislative history of the law indicated that other law was to be considered sufficient authorization for the project and that only further approval through the appropriation process was required.

On Apr. 17, 1973,(18) during consideration in the Committee of the Whole of the legislative branch appropriations bill (H.R. 6691) for fiscal 1974, Mr. J. Edward Roush, of Indiana, raised a point of order against the following language in the bill, and proceedings ensued as indicated:

EXTENSION OF THE CAPITOL

For an amount, additional to amounts heretofore appropriated, for "Extension of the Capitol", in substantial accordance with plans for extension of the West Central front heretofore approved by the Commission for Extension of the United States Capitol, to be expended, as authorized by law, by the Architect of the Capitol under the direction of such Commission, $58,000,000, to remain available until expended. . . .

MR. ROUSH: Mr. Chairman, my point of order is based upon these following facts: The appropriation as proposed lacks legislative authority and, secondly, the language "$58,000,000 to remain available until expended" constitutes legislation on a general appropriation bill. . . .

I would refer to the appropriation bill last year, which would be Public Law 92-342, under the section "Extension of the Capitol:"

> Funds available under this appropriation may be used for the prepa-

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18. 119 CONG. REC. 12781, 12782, 93d Cong. 1st Sess.

> ration of preliminary plans for the extension of the west central front: *Provided, however,* That no funds may be used for the preparation of the final plans or initiation of construction of said project until specifically approved and appropriated therefor by the Congress.

I point out to the Chairman that the plans have not been specifically approved. . . .

Mr. Chairman, I have searched this matter diligently and the only authority that I can find for the extension of the west front of the Capitol necessarily has to be inferred from the language of a bill which was passed in 1855. . . .

MR. [ROBERT R.] CASEY of Texas: . . . Mr. Chairman, this project is authorized, and I would point out that the gentleman from Indiana (Mr. Roush) who is making the point of order, failed to read all of Public Law 242 of the 84th Congress.

The law reads:

> Extension of the Capitol: The Architect of the Capitol is hereby authorized, under the direction of a Commission for Extension of the United States Capitol, to be composed of the President of the Senate, the Speaker of the House of Representatives—

Et cetera.

> In substantial accordance with Scheme B of the architectural plan submitted by a joint commission of Congress and reported to Congress on March 3, 1905 (House Document Numbered 385, Fifty-Eighth Congress), but with such modifications and additions, including provisions for restaurant facilities and such other facilities in the Capitol Grounds, together with utilities . . .

It does not just refer to one item. I think this gives great latitude.

> Together with utilities, equipment, approaches, and other appurtenant or necessary items . . . there is hereby appropriated $5,000,000, to remain available until expended: *Provided,* that the Architect of the Capitol under the direction of said commission and without regard to the provisions of section 3709 of the Revised Statutes, as amended, is authorized to enter into contracts.

Et cetera.

This law was amended February 14, 1956, and there was added this amendment under "Extension of the Capitol." This was Public Law 406, 84th Congress:

> The paragraph entitled "Extension of the Capitol" in the Legislative Appropriation Act, 1956, is hereby amended by inserting after the words "to remain available until expended" and before the colon, a comma and the following: "and there are hereby authorized to be appropriated such additional sums as may be determined by said Commission to be required for the purposes hereof. . . ."

THE CHAIRMAN:[19] . . . The gentleman from Indiana . . . contends that Public Law 92-342 requires "specific" approval by Congress of preparation of final plans or initiation of construction prior to an appropriation therefor. The Chair has examined the legislative history of the provision relied upon by the gentleman from Indiana in support of his argument that the appropriation must be specifically approved by Congress prior to the appropriation, and it is clear from the debate in the Senate on March 28, 1972, that approval in an appropriation bill was all that was required by the provision in Public Law 92-342. The Chair feels that there is sufficient authorization contained in [Public Law 84-242] as amended by Public Law 84-406 for the appropriation contained in the pending bill, and that no further specific authorization is required prior to an appropriation for final plans and construction for the West Front.

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[19] John M. Murphy (N.Y.).

For these reasons the Chair overrules the point of order.

§ 2.8 An amendment to a general appropriation bill providing that appropriations in the bill available for travel expenses were to be available for expenses of attendance of officers and employees at meetings or conventions was held to be in order since such provision was authorized to be included in appropriation bills by statutory provisions.

On May 2, 1951,(20) the Committee of the Whole was considering H.R. 3790, an Interior Department appropriation. The following proceeding took place:

> Amendment offered by Mr. Jackson of Washington: On page 36, line 17, insert the following:
>
> Sec. 104. Appropriations in this act available for travel expenses shall be available for expenses of attendance of officers and employees at meetings or conventions of members of societies or associations concerned with the work of the bureau or office for which the appropriation concerned is made.

Mr. [Kenneth B.] Keating [of New York]: Mr. Chairman, I make the point of order against the amendment that it involves legislation on an appropriation bill and is not authorized by law. . . .

The Chairman:(21) The gentleman from Washington has called the attention of the Chair to section 83, title 5 of the United States Code. Permit the Chair to read the language contained in that provision:

> No money appropriated by any act shall be expended for membership fees or dues of any officer or employee of the United States or of the District of Columbia, in any society or association or for expenses of attendance of any person at any meeting or convention of members of any society or association unless such fees, dues, or expenses are authorized to be paid by specific appropriations for such purposes or are provided for in express terms in some general appropriation.

The Chair feels that the language which has just been read governs the matter and overrules the point of order made by the gentleman from New York.

Senate Confirmation of Appointees Required Prior to Appropriation for Positions

§ 2.9 Although the President has the power to appoint foreign ambassadors and ministers, an

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20. 97 Cong. Rec. 4738, 82d Cong. 1st Sess.

21. Wilbur D. Mills (Ark.).

appropriation to pay such salaries is not in order unless the Senate has confirmed the appointment.

On Aug. 17, 1937,(22) the Committee of the Whole was considering H.R. 8245, a deficiency appropriation bill. The proceedings were as follows:

Salaries of ambassadors and ministers: For an additional amount for salaries of ambassadors and ministers, fiscal year 1938, for the salary of an envoy extraordinary and minister plenipotentiary to Lithuania at $10,000 per annum, $8,333.34: *Provided,* That the appropriation for salaries of ambassadors and ministers, fiscal year 1938, shall be available for payment of the salary of an envoy extraordinary and minister plenipotentiary to Estonia and Latvia at $10,000 per annum. . . .

MR. [HAMILTON] FISH [Jr., of New York]: Mr. Chairman, I make a point on order against the language on page 28, lines 4 to 12, inclusive, as constituting legislation on an appropriation bill, not authorized by law. It creates a new position, that of Minister of Lithuania. The President has no constitutional right and is empowered by no act of Congress to create additional positions. Therefore, I make the point of order, Mr. Chairman, and if the Chair is in doubt I would like to speak a little further on the matter and cite some precedents. . . .

MR. [CLIFTON A.] WOODRUM [of Virginia]: Mr. Chairman, I think the item is subject to a point of order for the reason that the Minister has been appointed but not confirmed. The President has the right to appoint, but if the minister has not been confirmed the Congress would have no right to appropriate. There has been no confirmation. I think the gentleman's point of order is well taken, if he chooses to make it. . . .

THE CHAIRMAN:(1) The Chair is ready to rule. As stated by the gentleman from Virginia, the President has the right to appoint. At the present time, however, the Senate has not confirmed the appointment. The appropriation, therefore, is subject to a point of order.

The Chair sustains the point of order.

Implied Authorization

§ 2.10 Appropriations for travel expenses, including examination of estimates for appropriations in the field, under the heading "Office of the Secretary, Department of Agriculture," were held authorized by law as necessary to carry out the basic law setting up the Department of Agriculture.

On Apr. 27, 1950,(2) the Committee of the Whole was considering H.R. 7786, the Department of Agriculture chapter of the general appropriation bill of 1951. The following proceedings took place:

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22. 81 CONG. REC. 9175, 9176, 75th Cong. 1st Sess.

1. Claude V. Parsons (Ill.).
2. 96 CONG. REC. 5911, 81st Cong. 2d Sess.

Mr. [Kenneth B.] Keating [of New York]: Mr. Chairman, I make a point of order against the language appearing in lines 6 to 7, page 204, "travel expenses, including examination of estimates for appropriations in the field.". . .

The Chairman:(3) The Chair is prepared to rule.

The gentleman from New York [Mr. Keating] has made a point of order against the language appearing on page 204 of the chapter beginning in line 6, which has been quoted by him, on the ground that it is legislation on an appropriation bill in violation of the rules of the House. The Chair has examined the language and has listened attentively to the arguments presented and has also made an examination of the precedents and decisions of the House. It appears that in 1938 a point of order was made against language similar to this, and the Chairman, Mr. Jones, of Texas, overruled the point of order. The decision is found on page 2656 of the Record of March 1, 1938. On the basis of that precedent and decision the Chair overrules the point of order.

The 1938 decision relied on by the Chair took place during consideration of H.R. 9621, appropriations for the Department of the Interior. An amendment had been offered, reading in part as follows:(4)

Amendment offered by Mr. Scrugham: Page 72, beginning with line 12, insert the following:

> Administration provisions and limitations: For all expenditures authorized by the act of June 17, 1902, and acts amendatory thereof or supplementary thereto, known as the reclamation law, and all other acts under which expenditures from said fund are authorized, including not to exceed $100,000 for personal services and $15,000 for other expenses in the office of the chief engineer . . .; examination of estimates for appropriations in the field; refunds of overcollections and deposits for other purposes; not to exceed $15,000 for lithographing, engraving, printing, and binding.

The following exchange took place:

Mr. [John] Taber [of New York]: Mr. Chairman, I make the point of order against the amendment upon the ground that it is legislation upon an appropriation bill, that it includes items not authorized by law, as, for instance, $5,000 for making photographic prints, not authorized by law in line 20 and in line 22, provision for examination of estimates for appropriations in the field, which is not authorized by law; $15,000 for lithographing and engraving, not authorized by law; the purchase of ice, the purchase of rubber boots for official use by employees, not authorized by law.

The Chairman: The Chair is ready to rule. This amendment provides for all expenditures authorized by the act of June 17, 1902, and acts amendatory thereof or supplemenatary thereto, known as the reclamation law, and all other acts under which expenditures

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3. Jere Cooper (Tenn.).
4. 83 Cong. Rec. 2655, 2656, 75th Cong. 3d Sess., Mar. 1, 1938.

from said fund are authorized, and so forth. The Chair thinks that the items to which the gentleman from New York objects specifically are incidental to the main purpose of carrying out the reclamation law. These incidental items it seems to the Chair are necessary to carry out the major purposes of the reclamation law, and the Chair, therefore, overrules the point of order.

Mr. Taber offered an amendment to strike the words "examination of estimates for appropriations in the field," which amendment was rejected.

Specific Project Authorized by General Grant of Authority

§ 2.11 Legislation authorizing the Administrator of the Federal Aviation Administration to develop and test improved aircraft, and legislation transferring and vesting those functions "including the development and construction of a civil supersonic aircraft" in the Secretary of Transportation was held to authorize an appropriation for the construction of prototypes of the civil supersonic aircraft.

On May 27, 1970,(5) during consideration in the Committee of the Whole of the Department of Transportation appropriation bill for fiscal 1971 (H.R. 17755), Mr. Sidney R. Yates, of Illinois, raised a point of order against certain language in the bill:

> For an additional amount for expenses, not otherwise provided for, necessary for the development of a civil supersonic aircraft, including the construction of two prototype aircraft of the same design, and advances of funds without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), $289,965,000, to remain available until expended. . . .

MR. YATES: Mr. Chairman, this is an appropriation for the development of a supersonic aircraft under the terms of a contract between the Government and the Boeing Co. The authorization for the appropriation is admittedly section 312(b) of the Federal Aviation Act, which provides as follows:

> The Administrator is empowered to undertake or supervise such development work and service testing as tends to the creation of improved aircraft, aircraft engines, propellers, and appliances.
>
> For such purpose, the Administrator is empowered to make purchases—including exchange—by negotiation, or otherwise, of experimental aircraft, aircraft engines, propellers, and appliances, which seem to offer special advantages to aeronautics.

There is nothing in either provision which authorizes the spending of public funds for private purposes or private gains. There is nothing in either provision which gives the benefits of whatever development or testing is undertaken to the person or the company doing the work. My point here is if the Government pays for the work, as it is in this case, then the

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(5) 116 CONG. REC. 17310, 17311, 91st Cong. 2d Sess.

Government is entitled to the product. The Government owns the product because it has paid for it. There is no provision in the law which permits gifts or for making grants. That is not the case in this contract because the plane when built will belong to Boeing. Under the contract, whatever results from the development belongs to Boeing, which has the burden of producing the SST. Under the contract the Government is to be repaid for its money through royalties from the sale of planes, but the planes when completed will belong to the Boeing Co. Yet, as I said, there is no authority on the statute books for loans or grants to the contractor. . . .

THE CHAIRMAN:(6) The Chair is prepared to rule.

The gentleman from Illinois (Mr. Yates) raised the point of order against the appropriation appearing on page 2 of the bill, entitled "Civil Supersonic Aircraft Development," on the ground that there is no authorization in law for the development of such an aircraft, and for the expenditure provided herein.

The gentleman from Massachusetts (Mr. Boland) in responding to the point of order has cited certain provisions of law which have been recognized by the gentleman from Illinois as pertaining directly to the authorization of the civil supersonic aircraft development program.

The Chair has examined the laws to which attention has been directed. Chapter 20 of title 49, United States Code, relates to the Federal aviation program of the Federal Government, and sets forth the powers and duties of the Federal Aviation Agency and, as has been pointed out, empowers the Administrator to "undertake or supervise such developmental work and service testing as tends to the creation of improved aircraft. For such purpose, the Administrator is empowered to make purchases—of experimental aircraft."

Even broader, I think, is the delegation of authority that appears in Public Law 89-670, establishing the Department of Transportation. Section 6(c)(1) of that act states as follows:

> There are hereby transferred to and vested in the Secretary (of Transportation) all functions, powers, and duties of the Federal Aviation Agency, and of the Administrator and other officers and offices thereof, including the development and construction of a civil supersonic aircraft.

The Chair has heard the argument of the gentleman from Illinois with reference to his contention that this must be construed narrowly, but does not find in the law or in the precedents any requirement for as narrow a construction as the gentleman has contended for. It is a broad delegation of authority, and must not be construed as narrowly as the gentleman has sought.

In view of these citations, which give the Secretary a broad experimental and development authority and bestow upon him in explicit terms the authority to develop and construct a Civil Supersonic Aircraft, the Chair is constrained to overrule the point of order.

Therefore the point of order is overruled.

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6. Edmond Edmondson (Okla.).

"Miscellaneous" Items as Authorized

§ 2.12 Language in an appropriation bill making appropriations for certain items "and other miscellaneous expenses, not otherwise provided for" was held to apply to regular expenses that are authorized by law, and in order.

On Mar. 16, 1945,(7) the Committee of the Whole was considering H.R. 2603, a State, Justice, Commerce, Judiciary, and Federal Loan Agency appropriation. A provision was read as follows, and a point of order was raised as indicated below:

> Miscellaneous expenses: For stationery, supplies, materials and equipment, freight, express, and drayage charges, washing towels, advertising, purchase of lawbooks and books of reference, periodicals and newspapers, communication service and postage; for the maintenance, repair, and operation of one motor-propelled delivery truck; for rent in the District of Columbia, and elsewhere; for official traveling expenses, including examination of estimates for appropriations in the field, and other miscellaneous expenses, not otherwise provided for, necessary to effectively carry out the provisions of the act providing for the administration of the United States courts, and for other purposes, $26,000. . . .

MR. [ROBERT F.] JONES [of Ohio]: . . . I make a point of order against the language beginning in line 15 with the word "and" and ending in line 16 with the word "for."

THE CHAIRMAN:(8) The gentleman makes a point of order against the language reading:

> And other miscellaneous expenses not otherwise provided for?

MR. JONES: That is right.

THE CHAIRMAN: Does the gentleman from Michigan desire to be heard on the point of order?

MR. [LOUIS C.] RABAUT [of Michigan]: Mr. Chairman, this provides merely for regular expenses that are authorized by law. I do not see anything in this subject to a point of order.

THE CHAIRMAN: The Chair fails to see any reason why the language referred to should be subject to a point of order, and unless the gentleman from Ohio can be more specific in his objection the Chair is constrained to overrule the point of order.

The Chair overrules the point of order.

Increasing Appropriation Within Authorized Limits

§ 2.13 It is in order to increase the appropriation in an appropriation bill for purposes authorized by law if such increase does not exceed the amount authorized for such objects.

On Mar. 10, 1942,(9) the Committee of the Whole was consider-

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7. 91 CONG. REC. 2378, 79th Cong. 1st Sess.

8. Wilbur D. Mills (Ark.).

9. 88 CONG. REC. 2224, 2225, 77th Cong. 2d Sess.

ing H.R. 6736, a War Department civil functions appropriation bill. An amendment was allowed which restored part of a sum which had previously been stricken from the bill, where such amendment did not cause the appropriation for the objects under consideration to exceed the total amount for such objects authorized by law. The portion of the bill in question, and proceedings relating to it, were as follows:

> Flood control, general: For the construction and maintenance of certain public works on rivers and harbors for flood control, and for other purposes, in accordance with the provisions of the Flood Control Act, approved June 22, 1936, as amended and supplemented, including printing and binding, newspapers, lawbooks, books of reference, periodicals, and office supplies and equipment required in the Office of the Chief of Engineers to carry out the purposes of this appropriation, and for preliminary examinations and surveys of and contingencies in connection with flood-control projects authorized by law, $144,973,700: . . .
>
> Mr. [David D.] Terry [of Arkansas]: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
>> Amendment offered by Mr. Terry: "On page 7, line 5, strike out $144,973,700 and insert $147,078,700."
>
> Mr. [Robert F.] Rich [of Pennsylvania]: Mr. Chairman, I reserve a point of order against the amendment. . . .
>
> Mr. Terry: Mr. Chairman, the purpose of this amendment is to raise the amount carried in the bill, $144,973,000 for flood control to an amount that will be sufficient to include the beginning of the work on the Table Rock Reservoir.
>
> Congress has authorized for the White River Basin $49,000,000 to be appropriated for the prosecution of a comprehensive dual purpose flood control and power program in the White River Basin. According to the testimony in the hearings, $15,870,000 was allocated from funds previously appropriated against this authorization. The Budget has presented four projects in the White River Basin which total $37,525,000.
>
> The appropriation of this amount, in conjunction with the $15,870,000, would result in a total of $53,395,000, or $4,395,000 in excess of the $49,000,000 that has been authorized to be appropriated.
>
> The Committee of the Whole eliminated the $6,500,000 which was included in the Budget sent down on February 20 for the construction of Table Rock Reservoir. When this matter was up in the subcommittee at the time of the marking up of the bill, a motion was made by a committee member to eliminate Table Rock, but the subcommittee voted against cutting out the Table Rock item. When the bill came up in the full committee on appropriations, on a very close vote, the committee eliminated Table Rock on the theory that—and it was a fact—the appropriation was over the authorization. So the Table Rock item was eliminated, as I say, by a very close vote.

My amendment merely seeks to raise the amount to the limit of the congressional authorization. If we adopt my amendment we add $2,105,000 to the amount in the bill for flood control, but it will permit considerable work to be done on the Table Rock project this year and the coming fiscal year, and we shall still be within the authorized appropriation limit carried in the Budget estimate for the whole bill, and we shall not be above the $49,000,000 which has been authorized by the Congress for the White River Basin. . . .

The Chairman:(10) Does the gentleman from Pennsylvania [Mr. Rich] insist on his point of order?

Mr. Rich: Mr. Chairman, I insist on my point of order.

The authorization for these two projects was only $49,000,000. . . .

Mr. Chairman, this exceeds the total amount authorized. . . .

Mr. Terry: Mr. Chairman, the committee in charge of the bill has checked those figures with the Army engineers in charge of flood control, and the figure that I have included in the amendment is the figure given by the engineers. It shows a total of $53,395,000 will be appropriated, including $15,870,000 past amounts, and those in the Budget estimates for 1943, in the sum of $37,525,000, with a $49,000,000 authorization. That would exceed the authorization $4,395,000. If $6,500,000 for Table Rock is stricken out, the authorizations will exceed the appropriations in an amount of $2,105,000, which is the amount of my amendment, and is an amount that will not exceed the Budget estimate and will not exceed the $49,000,000 authorized by the Legislative Committee of this House for the comprehensive plan for the White River Basin.

Mr. Rich: Mr. Chairman, I may say the gentleman's own figures show that these are the items to begin the project and they will exceed the amount of the Budget estimate.

The Chairman: The Chair is ready to rule.

This section of the bill, lines 4 and 5, is for preliminary examination, surveys, or for contingencies in connection with flood-control projects authorized by law.

The gentleman from Arkansas in his amendment raises the appropriation, but in that raise it only applies to those projects which are authorized by law; therefore, the point of order is overruled.

§ 2.14 An amendment proposing simply to increase an appropriation for a specific object over the amount carried in the appropriation bill does not constitute a change in law unless such increase is in excess of that authorized.

On Feb. 28, 1939,(11) the Committee of the Whole was considering H.R. 4492, a Treasury and Post Office appropriation bill. The following proceedings took place:

Construction of public buildings outside of the District of Columbia: For continuation of construction of, and ac-

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10. Alfred L. Bulwinkle (N.C.).

11. 84 Cong. Rec. 2029, 2030, 76th Cong. 1st Sess.

quisition of sites for, public buildings outside of the District of Columbia, including the purposes and objects, and subject to the limitations, specified under this head in the Third Deficiency Appropriation Act, fiscal year 1937, and also including those increases in the limits of cost of certain authorized projects, 25 in number, as specified in House Document No. 177, Seventy-sixth Congress, $30,000,000: *Provided*, That the provisions of section 322 of the act of June 30, 1932 (47 Stat. 412), shall not apply with respect to the rental of temporary quarters for housing Federal activities during the replacement or remodeling of buildings authorized under this or previous acts.

MR. [JAMES F.] O'CONNOR [of Montana]: Mr. Chairman, I offer the following amendment which I send to the desk.

The Clerk read as follows:

> Amendment offered by Mr. O'Connor: Page 51, line 8, strike out "$30,000,000" and insert "$60,000,000."

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order that it is not authorized by law. . . .

THE CHAIRMAN:[12] The Chair is ready to rule.

The gentleman from Montana [Mr. O'Connor] offers an amendment on page 51, line 8, seeking to increase the appropriation there stated, $30,000,000, to the figure of $60,000,000, to which amendment the gentleman from New York [Mr. Taber] makes a point of order on the ground that the increase in the item sought to be made is not authorized by law.

The Chair invites attention to Public Resolution 122, Seventy-fifth Congress, title III, Federal Public Buildings, and quotes in part as follows:

> . . . is hereby increased from $70,000,000 to $130,000,000.

There is a balance remaining of that authorization of $71,000,000. The pending bill carries an appropriation of $30,000,000, which would leave $41,000,000 unappropriated. The amendment of the gentleman from Montana seeks to increase the $30,000,000 appropriation to $60,000,000, or seeks to appropriate $30,000,000 of the remaining $41,000,000 authorized by law. Therefore, the Chair overrules the point of order.

§ 2.15 Language in an appropriation bill providing an additional amount within the total authorized was held to be in order.

On Feb. 25, 1958,[13] the Committee of the Whole was considering H.R. 10881, a bill making supplemental appropriations. The following provision was read and a point of order was raised as indicated below:

> For an additional amount for "Acreage reserve program," fiscal year 1958, $250,000, which shall be available to formulate and administer an acreage reserve program in accord with the provisions of subtitles A and C of the Soil Bank Act (7 U.S.C. 1821-1824 and 1802-1814), with respect to the 1958 crops, in an amount not to exceed $175

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[12] Jere Cooper (Tenn.).

[13] 104 CONG. REC. 2766, 85th Cong. 2d Sess.

million in addition to the amount specified for such purposes in Public Law 85-118.

Mr. [John] Taber [of New York]: Mr. Chairman, I make a point of order against the paragraph on page 4, lines 1 to 9 of the bill on the ground that it changes existing law. I refer the chairman to the language of the appropriation bill which became law on the 2d day of August. . . .

The Chairman:(14) The Chair is ready to rule.

The language objected to by the gentleman from New York [Mr. Taber] provides for an additional amount. This of course means an additional amount to that provided for in the authorization contained in Public Law 540 of the 84th Congress.

The Chair therefore feels that in view of the fact that there are ample funds authorized to carry out this program, and that the appropriation herein proposed is within the authorized amount, the point of order cannot be sustained.

The Chair overrules the point of order.

Parliamentarian's Note: The law referred to in the point of order was contained in Pub. L. No. 85-118 which provided, "That no part of *this* appropriation shall be used to formulate and administer an acreage reserve program which would result in total compensation being paid to producers in excess of" a designated amount. That limitation, since it applied only to the appropriation in that act, had no applicability to the supplemental appropriation which was in dispute here.

Appropriation of Total Authorization

§ 2.16 Where the law authorizes an appropriation of a specific amount and a paragraph of an appropriation bill appropriates a portion thereof, an amendment changing the figure in the bill to the full amount authorized is in order.

On Mar. 28, 1939,(15) the Committee of the Whole was considering H.R. 5269, an agricultural appropriation bill. The following portion of the bill was before the committee:

Farm Tenancy

To enable the Secretary of Agriculture to carry out the provisions of title I of the Bankhead-Jones Farm Tenant Act, approved July 22, 1937 (7 U.S.C. 1000-1006), including the employment of persons and means in the District of Columbia and elsewhere, exclusive of printing and binding, as authorized by said act, $24,984,500, together with the unexpended balance of the appropriation made under said act for the fiscal year 1939.

Mr. [Jed] Johnson of Oklahoma: Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

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14. Francis E. Walter (Pa.).

15. 84 Cong. Rec. 3454, 3455, 76th Cong. 1st Sess.

> Amendment offered by Mr. Johnson of Oklahoma: Page 93, line 22, after the word "Act", strike "$24,584,500" and insert in lieu thereof "$50,000,000."

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order that the $50,000,000 is not authorized by law. . . .

THE CHAIRMAN:[16] The amendment offered by the gentleman from Oklahoma provides that the figures, $24,984,500, be stricken out and $50,000,000 inserted in lieu thereof.

This bill is making appropriations for the Department of Agriculture, and for the Farm Credit Administration, for the fiscal year ending June 30, 1940. The Chair has examined the law, and the law provides, on the question of farm tenancy, that not to exceed $10,000,000 shall be appropriated for the year ending June 30, 1938; not to exceed $25,000,000 for the year ending June 30, 1939; and not to exceed $50,000,000 for each fiscal year thereafter.

Therefore the point of order is overruled.

Effect of Language Limiting Appropriations to Purposes Authorized by Law

§ 2.17 A point of order will not lie against a lump-sum appropriation for river and harbor projects on the ground that some of the projects enumerated in the committee report for allocation of funds have not been authorized, since language in the bill limits use of the appropriation to "projects authorized by law."

On June 18, 1958,[17] a point of order was made against provisions of H.R. 12858 (appropriations for civil functions administered by the Department of the Army and certain agencies of the Department of the Interior), as indicated below:

> The Clerk read as follows:
>
> CONSTRUCTION, GENERAL
>
> For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by law; detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction); and not to exceed $1,600,000 for transfer to the Secretary of the Interior for conservation of fish and wildlife as authorized by law; to remain available until expended $577,085,500: . . . *Provided further,* That no part of this appropriation shall be used for projects not authorized by law or which are authorized by a law limiting the amount to be appropriated therefor, except as may be within the limits of the amount now or hereafter authorized to be appropriated. . . .

MR. [JOHN] TABER [of New York]: [I make a point of order against the] paragraph beginning page 3, line 22 and ending on page 5, line 9, on the ground it contains funds the appropriation which has not been authorized by law. The figure there is $577,085,500. I am advised by the Corps of Engineers, by letter dated June 11, 1958, that there is contained here $57,702,253 in projects which are not authorized by law.

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[16] Wright Patman (Tex.).

[17] 104 CONG. REC. 11646, 85th Cong. 2d Sess.

I am able by referring to the different items on page 5 of the Report that there are the Beaver Reservoir in Arkansas, the Bull Shoals Reservoir, Arkansas and Missouri. . . . There are probably 15 or 20 of those items. . . .

Mr. [Clarence] Cannon [of Missouri]: [The] gentleman makes a point of order against the figure $577,085,500 in line 8 on page 4. But the point of order does not lie for the reason that in the proviso at the bottom of page 4 it is specifically provided:

> *Provided further*, That no part of this appropriation shall be used for projects not authorized by law or which are authorized by a law limiting the amount to be appropriated therefor, except as may be within the limits of the amount now or hereafter authorized to be appropriated.

So the point of order is not well taken, Mr. Chairman.

Mr. Taber: Mr. Chairman, these projects are without and beyond the limits of the authorization. That is the point of order.

Mr. Cannon: Mr. Chairman, may I also call attention to the language beginning on page 3 as follows:

> For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by law.

The figure the gentleman refers to is for this specific purpose.

The Chairman [Hale Boggs, of Louisiana]: The Chair is prepared to rule.

The language is very specific. As the chairman of the Committee on Appropriations pointed out a moment ago, beginning on line 23, page 3, the language is as follows:

> For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by law.

Then further, as again pointed out by the chairman, there is this language on the bottom of page 4:

> That no part of this appropriation shall be used for projects not authorized by law.

Now, that language, in the opinion of the Chair, is quite specific in that none of these funds regardless of the amount involved, can be used for any project which is not authorized by law.

The Chair overrules the point of order.

§ 2.18 Language in an appropriation bill providing funds for the construction of public works and specifying that none of the funds appropriated should be used for projects not authorized by law "or which are authorized by a law limiting the amount to be appropriated therefor, except as may be within the limits of the amount now or hereafter authorized to be appropriated" was held to limit expenditures to authorized projects and a point of order against the lan-

guage as legislation was overruled.

On May 24, 1960,(18) during consideration in the Committee of the Whole of an appropriation bill (H.R. 12326), the following paragraph of the bill was read:

> For the prosecution of river and harbor . . . and related projects authorized by law; detailed studies, and plans and specifications, of projects . . . authorized or made eligible for selection by law . . .; and not to exceed $1,400,000 for transfer to the Secretary of the Interior for conservation of fish and wildlife as authorized by law; $662,622,300, to remain available until expended: *Provided,* That no part of this appropriation shall be used for projects not authorized by law or which are authorized by a law limiting the amount to be appropriated therefor, except as may be within the limits of the amount now or hereafter authorized to be appropriated: . . .

THE CHAIRMAN:(19) The Chair recognizes the gentleman to make [a] point of order.

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I make the point of order against the language to be found on page 4, beginning on line 18 and into line 21, "or which are authorized by a law limiting the amount to be appropriated therefor, except as may be within the limits of the amount now or hereafter authorized to be appropriated."

Mr. Chairman, I make the point of order against that language on the ground that it is legislation on an appropriation bill. I make the further point of order that this is authorizing appropriations for projects not authorized by law.

Mr. Chairman, I would like to quote briefly from "Cannon's Precedents," page 63:

> As a general proposition whenever a limitation is accompanied by the words "unless," "except," "until," "if," "however," there is ground to view the so-called limitation with suspicion, and in case of doubt as to its ultimate effect the doubt should be resolved on the conservative side. By doing so appropriation bills will be relieved of much of the legislation which is being constantly grafted upon them and a check given a practice which seems to the Chair, both unwise and in violation of the spirit, as well as the substance, of our rules.

THE CHAIRMAN: Does the gentleman from Michigan [Mr. Rabaut] care to be heard on the point of order?

MR. [LOUIS C.] RABAUT: Mr. Chairman, I wish to explain the language. The legislative committee has placed outside limits on the amount of money which can be spent in a given river basin. Such basin may have a number of dams or projects in it. Without the language these monetary limits could be exceeded by action on an appropriation bill, thus setting aside the action of the legislative committee.

This is strictly a limitation.

MR. GROSS: Mr. Chairman, may I be heard further?

THE CHAIRMAN: The Chair will hear the gentleman.

MR. GROSS: Mr. Chairman, I should like to point out to the Chair that more than one member of the commit-

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18. 106 CONG. REC. 10979, 10980, 86th Cong. 2d Sess.
19. Hale Boggs (La.).

tee has admitted that there are appropriations not authorized by law, that this is a subterfuge, and I say, Mr. Chairman, designed to controvert the rule of the House.

The Chairman: Does the gentleman from Iowa care to be heard on the point of order?

Mr. [Ben F.] Jensen [of Iowa]: I do, Mr. Chairman.

Mr. Chairman, I have been on the Committee on Appropriations for the past 18 years. I cannot recall when a point of order has ever been raised against similar language in an appropriation bill. The language is simply limiting an appropriation expenditure, providing that the expenditure shall not be made until such project is authorized by law. I fail to see, Mr. Chairman, where a point of order could lie against this language because it is purely a simple limitation of expenditure on an appropriation bill; nothing more, nothing less.

The Chairman: The Chair is prepared to rule.

It so happens that almost an identical point of order to an identical paragraph was raised on June 18, 1958, by the gentleman from New York [Mr. Taber]. It also happens that the present occupant of the chair was in the chair at that time. The Chair ruled then that the language was specific, that there was no question about its referring to the controlling phase "authorized by law," and none of the appropriation can be expended unless authorized by law.

The Chair overrules the point of order and sustains the ruling made on June 18, 1958.

Parliamentarian's Note: This precedent and the preceding one demonstrate that when a lumpsum appropriation is restricted by specific language in the bill to projects authorized by law, indications in the committee report to the effect that certain unauthorized projects may be contemplated must be conceded to be without legislative effect. Where there is such a conflict in language, the language in the bill itself would prevail. Further discussion of this concept appears in Chapter 26, infra.

§ 2.19 A point of order will not lie against an amendment proposing to increase a lump-sum appropriation for construction and rehabilitation of public works projects when language in the bill limits use of the lump-sum appropriation to "projects . . . as authorized by law."

On June 5, 1959,(20) during consideration in the Committee of the Whole of a bill (H.R. 7509) making appropriations for civil functions administered by the Department of Defense, the following proceedings took place:

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20. 105 Cong. Rec. 10061, 86th Cong. 1st Sess.

MR. [HAMER H.] BUDGE [of Idaho]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Budge: On page 8, line 5, strike out "$128,473,239" and insert "$128,973,239.". . .

MR. [CLARENCE] CANNON [of Missouri]: The amendment has just been read and I am reserving a point of order to the amendment.

THE CHAIRMAN:(21) Will the gentleman from Missouri state his point of order?

MR. CANNON: The point of order is that the project is unauthorized.

MR. BUDGE: Mr. Chairman, may I be heard on the point of order?

THE CHAIRMAN: The Chair is constrained to overrule the point of order without further discussion, because the amendment simply changes the amount of the bill without specific reference to any project.

The point of order is overruled.

Parliamentarian's Note: The paragraph to which this amendment was offered began as follows: "Construction and Rehabilitation. For construction and rehabilitation of authorized reclamation projects or parts thereof (including power transmission facilities) and for other related activities, as authorized by law to remain available until expended, $128,473,239 . . ."

§ 2.20 A point of order was held not to lie against a lump-sum appropriation for increased pay costs, where the objection was based on the ground that a portion of the increase was not yet authorized by law; it was noted that language in the bill limited use of the appropriation to pay costs "authorized by or pursuant to law."

On May 21, 1969,(1) the Committee of the Whole was considering H.R. 11400, a supplemental appropriation bill. The following paragraphs of the bill were read for amendment:

> LEGISLATIVE BRANCH
>
> HOUSE OF REPRESENTATIVES
>
> COMPENSATION OF MEMBERS
>
> Compensation of Members, $1,975,000
>
> SALARIES, OFFICERS, AND EMPLOYEES
>
> "Office of the Speaker", $4,015

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I make a point of order against the language on page 23, lines 12, 13, and 14, on the ground that, as admitted by the committee, this contains moneys to be appropriated that have not been authorized by Congress.

THE CHAIRMAN:(2) The Chair will inquire: Does the gentleman's point of order refer to lines 12, 13, and 14?

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(21) Hale Boggs (La.).

(1) 115 CONG. REC. 13267, 13268, 91st Cong. 1st Sess.

(2) Chet Holifield (Calif.).

Mr. Gross: Lines 11, 12, 13, and 14.

The Chairman: Does the gentleman from Texas desire to be heard on the point of order?

Mr. [George H.] Mahon [of Texas]: Mr. Chairman, the gentleman, I believe, does not seek to reduce funds for the Office of the Speaker, as shown on line 14. The gentleman is, I believe, only referring to the pay increase for the Speaker and other Members—the item on line 12.

Mr. Gross: Very frankly, I do not know which one of these line items contains all the funds, so I am just trying to take as much as I can to be sure I get the funds covered. If the gentleman will tell me what line they are in I will amend my point of order, with the permission of the Chair.

Mr. Mahon: The funds which have not been authorized are included in line 12, in the $1,975,000 figure.

Mr. Gross: Those are the only funds that have not been authorized?

Mr. Mahon: Yes; that is the figure involved. A small portion of that has not been authorized. . . .

The $19,835 included in line 12 has not been authorized. That is correct.

Mr. Gross: You mean the $1,975,000?

Mr. Mahon: No; $19,835 has not been authorized. But it cannot be paid unless it is authorized. Otherwise, it would revert unused to the Treasury.

The Chairman: The Chair again is confused. The Chair sees no reference to a figure of $19,835 in the bill or in the language referred to here.

Mr. Mahon: It is part of the figure cf $1,975,000. . . .

The Chairman: The Chair is still in a quandary because the language in line 7 says, "for increased pay costs authorized by or pursuant to law."

Mr. Mahon: Mr. Chairman, all compensation due by law to Members of Congress is authorized. If it is not authorized, it cannot be paid.

The Chairman: Yes. . . .

The Chair is constrained to hold that the gentleman's point of order is not well taken, because the money amount in line 12 cannot be used for any other purpose than increased pay costs authorized by or pursuant to law. Therefore, the gentleman's point of order is overruled.(3)

Authorizations Enacted After Reporting Appropriation Bill

§ 2.21 A point of order against an item in a general appropriation bill was overruled when it became apparent that the au-

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3. See also 106 Cong. Rec. 7941, 86th Cong. 2d Sess., Apr. 12, 1960 [H.R. 11666], where a point of order was made against a paragraph of an appropriation bill on the ground that the lump-sum figure therein contained, according to the report, funds for one organization in excess of the authorization. Although the point of order was conceded, the language of the bill specified that appropriations in the paragraph were available only for "expenses authorized by the pertinent acts" providing for U.S. participation in certain organizations, and, under the precedents, the quoted language would limit the amount which could be used to the amount actually authorized, so that the point of order would not lie.

thorizing legislation had been enacted into law between the time the appropriation bill was reported and the time it was considered in the Committee of the Whole.

On May 19, 1970,(4) during consideration in the Committee of the Whole of the Department of the Interior appropriation bill for fiscal 1971 (H.R. 17619) a point of order was raised against certain language in the bill as follows:

ANADROMOUS AND GREAT LAKES FISHERIES CONSERVATION

For expenses necessary to carry out the provisions of the Act of October 30, 1965 (16 U.S.C. 757), $2,168,000.

MR. [DURWARD G.] HALL [of Missouri]: Mr. Chairman, I make a point of order against the language on lines 1 through 3 of page 19 as unauthorized for an appropriation.

THE CHAIRMAN:(5) Does the gentlewoman from Washington desire to be heard on the point of order?

MRS. [JULIA BUTLER] HANSEN of Washington: Yes, I do, Mr. Chairman.

May I say, relative to the Anadromous and Great Lakes Fisheries Conservation, the bill was signed by the President of the United States on May 14.

THE CHAIRMAN: The Chair is ready to rule.

The language in the bill indicates that this is under the provisions of the act of October 30, 1965. As the gentlewoman from Washington points out, the program has recently been reauthorized—Public Law 91-249.

The Chair overrules the point of order.

Repeal of Prior Authorization

§ 2.22 An act providing that notwithstanding any other law, "no appropriation may be made to the National Aeronautics and Space Administration unless previously authorized by legislation hereafter enacted by the Congress," was construed to have voided all previous authorizations for appropriations to that agency; hence an appropriation was held not to be in order since not authorized by law enacted after the repeal.

On June 29, 1959,(6) during consideration in the Committee of the Whole of a supplemental appropriation bill (H.R. 7978), a point of order was raised against certain provisions of the bill:

The Clerk read as follows:

RESEARCH AND DEVELOPMENT

For an additional amount for "Research and development," fiscal year 1959, $18,675,000, to remain available until expended.

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, a point of order.

THE CHAIRMAN:(7) The gentleman will state his point of order.

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4. 116 CONG. REC. 16164, 16165, 91st Cong. 2d Sess.
5. Charles M. Price (Ill.).
6. 105 CONG. REC. 12125, 86th Cong. 1st Sess.
7. Paul J. Kilday (Tex.).

MR. GROSS: Mr. Chairman, I make the point [of] order against the language on page 4, lines 2, 3, and 4, on the ground that there is no authorization in basic law for this appropriation to be made.

In connection with that, I send a copy of Public Law 86-45 of the 86th Congress to the Chair. I make the point of order on the ground that there is no authorization in basic law for this appropriation to be made. The authorization for this appropriation did exist at one time, but it was repealed by the act of June 15, 1959, Public Law 86-45, section 4, which reads as follows:

> Sec. 4. Notwithstanding the provisions of any other law, no appropriation may be made to the National Aeronautics and Space Administration unless previously authorized by legislation hereafter enacted by the Congress.

This law, Mr. Chairman, was approved on June 15, 1959. This language clearly indicates, Mr. Chairman, that appropriations can be made for items authorized by legislation which is hereafter enacted, meaning after June 15, 1959. Section 4 clearly states that appropriations can be made only for items authorized after June 15, 1959, hence all previous authorizations are voided. . . .

THE CHAIRMAN: The gentleman from Iowa has made a point of order against that portion of the bill appearing in lines 2, 3, and 4, page 4, and has called the attention of the Chair to section 4 of Public Law 86-45. In view of the language cited, the Chair sustains the point of order.

§ 3. Reappropriations

A House rule states:

> No general appropriation bill or amendment thereto shall be received or considered if it contains a provision reappropriating unexpended balances of appropriations; except that this provision shall not apply to appropriations in continuation of appropriations for public works on which work has commenced.(8)

The rule is not applicable when the reappropriation language is identical to legislative authorization language enacted subsequent to the adoption of the rule, since the law is a more recent expression of the will of the House.(9)

The precedents in this section must be compared with those carried in Chapter 26, infra, discussing transfer of funds affecting other appropriations, wherein provisions which sought to authorize the transfer of previously appropriated funds into new accounts for a different purpose have been ruled out as legislation changing existing law in violation of clause 2 Rule XXI. Section 139(c) of the Legislative Reorganization Act of 1946, later incorporated into the standing rules as clause 5 (now clause 6) of Rule XXI in 1953,

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8. Rule XXI clause 5 (renumbered as clause 6 beginning with the 94th Congress), *House Rules and Manual* § 847 (1981).
9. See § 3.7, infra.

sought to preclude reappropriations of unexpended balances, which were understood to be legislative methods (1) for making an appropriation available after the period in which it may be obligated has expired, or (2) for transferring to a given appropriation an amount not needed in another appropriation.[10] Prior to 1946, provisions which reappropriated in a direct manner unexpended balances and continued their availability for the same purpose for an extended period of time were not prohibited by Rule XXI because those provisions did not contain direct language changing existing law by conferring new authority (see, e.g., 4 Hinds' Precedents § 3592; 7 Cannon's Precedents § 1152), and this doctrine was extended even to include reappropriations for different purposes than those for which originally appropriated, if the new purposes were authorized by law (see, e.g., 7 Cannon's Precedents § 1158; § 3.14, infra). Other precedents, however, indicate that prior to 1946, propositions to make an appropriation payable from funds already appropriated for a different purpose have been ruled out as legislation (see e.g., 7 Cannon's Precedents § 1466). Indeed, on Dec. 14, 1921, Speaker Frederick H. Gillett, of Massachusetts, stated that "there are several decisions in print which are contradictory. There are decisions both ways." (7 Cannon's Precedents § 1158). In light of more recent precedents contained in Chapter 26, infra, however, it would appear that the Chair may properly rule out as legislation in violation of clause 2 Rule XXI provisions on a general appropriation bill which confer new authority to expend previously appropriated funds for a new purpose or for unauthorized projects by inclusion of language permitting or mandating transfers between accounts. Both that chapter and this section indicate that the Chair has on occasion relied upon both clause 2 and clause 5 of Rule XXI to rule out provisions which sought to authorize the transfer of previously appropriated funds into new accounts. Despite the conferral of Rule X clause 1(b)(3) in the 93d Congress of jurisdiction over "transfers of unexpended balances" upon the Committee on Appropriations, that committee remains restricted by clause 5 (now clause 6) of Rule XXI from including reappropriations of unexpended balances of appropriations in general appropriation bills, and only transfers between accounts in the same general appropriation bill are permitted (see Ch. 26, infra, discussion of transfer of funds within the same bill).

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[10] See, e.g., summary of hearings, Joint Committee on the Organization of Congress, 79th Cong. 1st Sess., p. 824, June 19, 1945 (hearing on the Legislative Reorganization Act of 1946).

The return of an unexpended balance to the Treasury is in order.[11]

Generally

§ 3.1 An amendment to an appropriation bill proposing reappropriation of unexpended balances of appropriations is in violation of Rule XXI clause 5 (now clause 6), and therefore not in order.

On July 11, 1955,[12] the Committee of the Whole was considering H.R. 7224, a mutual security appropriation bill. The following provision of the bill was read:

> That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1956. . . .

An amendment was offered as indicated below:

> Amendmend offered by Mr. Whitten:
>
> On page 1, line 3, strike out the word "appropriated" and substitute the word "reappropriated."
>
> Page 1, line 4, strike out the words "not otherwise" and substitute the word "heretofore."

The effect of which was to change the text of the bill to read:

> That the following sums are reappropriated, out of any money in the Treasury heretofore appropriated, for the fiscal year ending June 30, 1956.

A point of order was made as follows:

Mr. [Otto E.] Passman [of Louisiana]: Mr. Chairman, I make a point of order against the amendment that it is legislation on an appropriation bill. He attempts to appropriate money heretofore appropriated . . . and it goes beyond the scope of the present legislation.

Mr. [James L.] Whitten [of Mississippi]: Mr. Chairman, it is my understanding that a rule was had on this bill on legislation included in it. It is my understanding that money now in the Treasury to the credit of the foreign-aid program is not all expended.

The Chairman:[13] The legislation under consideration is not here under a special rule. If the gentleman does not care to be heard, the Chair is ready to rule on the point of order.

Mr. Whitten: I have nothing further to add, Mr. Chairman.

The Chairman: Rule XXI, clause 5, is very plain. It provides that—

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[11] See 4 Hinds' Precedents § 3594.

[12] 101 Cong. Rec. 10232, 84th Cong. 1st Sess. See also, for example, 106 Cong. Rec. 6862, 86th Cong. 2d Sess., Mar. 29, 1960; 101 Cong. Rec. 8534, 84th Cong. 1st Sess., June 16, 1955.

[13] Francis E. Walter (Pa.).

> No general appropriation or amendment thereto shall be received or considered if it contains a provision reappropriating unexpended balances of appropriations.
>
> It seems to the Chair that this language very plainly deals with the amendment that has just been offered, and the Chair sustains the point of order.

§ 3.2 An amendment to an appropriation bill reappropriating unexpended balances of funds previously appropriated was held in violation of the Legislative Reorganization Act of 1946, and not in order for certain monitoring activities.

On Aug. 20, 1951,(14) the Committee of the Whole was considering H.R. 5215, a supplemental appropriation bill. An amendment was offered and a point of order was raised as indicated below:

> Amendment offered by Mr. Phillips: On page 9, strike out lines 22 and 23 and insert in lieu thereof the following: "For an additional amount, for monitoring activities, to be derived from funds previously appropriated, $1,000,000."
>
> MR. [CLARENCE] CANNON [of Missouri]: Mr. Chairman, a point of order. . . .
>
> The appropriation is from "funds previously appropriated" and therefore is tantamount to a reappropriation. Under amendments to the rules of the House enacted in the Legislative Reorganization Act of 1946, reappropriations are not in order on general appropriation bills. . . .
>
> THE CHAIRMAN:(15) The Chair is ready to rule.
>
> The provision in the gentleman's amendment providing that the funds for monitoring activities are to be derived from funds previously appropriated is a violation of the Reorganization Act, and therefore the Chair sustains the point of order.

§ 3.3 In an appropriation bill a provision that "the unexpended balance of appropriations heretofore reserved for moving the International Broadcasting Service to the District of Columbia or its environs shall remain available for such purpose until December 31, 1954," was ruled out, being a reappropriation in violation of Rule XXI clause 5 (now clause 6), the Chair also construing the language to be legislation in violation of clause 2 of Rule XXI.

On Mar. 3, 1954,(16) the Committee of the Whole was considering H.R. 8067, a State, Justice, and Commerce Department appropriation. Proceedings were as follows:

> MR. [JOHN J.] ROONEY [of New York]: Yes, Mr. Chairman. On page 49, lines

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14. 97 CONG. REC. 10393, 10394, 82d Cong. 1st Sess.

15. Edward J. Hart (N.J.).

16. 100 CONG. REC. 2600, 83d Cong. 2d Sess.

11 to 14, I make a point of order against that language.

THE CHAIRMAN:[17] Will the gentleman explain his point of order?

MR. ROONEY: This would make available into another fiscal year funds appropriated in the current year. There is no authority in law for this.

THE CHAIRMAN: Does the gentleman from Ohio wish to be heard on the point of order?

MR. [CLIFF] CLEVENGER [of Ohio]: I concede the point of order, Mr. Chairman.

THE CHAIRMAN: The Chair thinks this is legislation on an appropriation bill. Therefore, the point of order is sustained.

§ 3.4 A provision in an appropriation bill permitting an appropriation previously made in another act to be used for a new purpose was conceded to be legislation.

On Dec. 11, 1969,[18] during consideration in the Committee of the Whole of a bill (H.R. 15209) making supplemental appropriations for fiscal year 1970, Mr. H. R. Gross, of Iowa, raised a point of order against certain language in the bill:

MEMBERS' CLERK HIRE

After June 1, 1970, but without increasing the aggregate basic clerk hire monetary allowance to which each Member and the Resident Commissioner from Puerto Rico is otherwise entitled by law, the appropriation for "Members' clerk hire" may be used for employment of a "student congressional intern" in accord with the provisions of House Resolution 416, Eighty-ninth Congress.

POINT OF ORDER

MR. GROSS: Mr. Chairman, I make a point of order against the language on page 6, beginning with line 11 and through line 18, as being legislation on an appropriation bill.

THE CHAIRMAN:[19] Does the gentleman desire to be heard in support of the point of order?

MR. GROSS: I thought I made the point of order, Mr. Chairman.

THE CHAIRMAN: Does the gentleman from Texas desire to be heard on the point of order?

MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, the Committee on Appropriations put this legislation in the bill for the purpose of accommodating Members. It is subject to a point of order, and the point of order is conceded.

THE CHAIRMAN: The gentleman from Texas has conceded the point of order, and the Chair sustains the point of order.

§ 3.5 Where the bill providing an annual authorization for the Coast Guard Reserve had not yet been enacted into law, an amendment to a general appropriation bill containing funds for Coast Guard Reserve train-

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[17] Leroy Johnson (Calif.).

[18] 115 CONG. REC. 38541, 38542, 91st Cong. 1st Sess.

[19] James G. O'Hara (Mich.).

ing and providing that amounts equal to prior year appropriations for that purpose should be transferred to that appropriation was held to contain an unauthorized appropriation in violation of Rule XXI clause 2, and a reappropriation of unexpended balances in violation of Rule XXI clause 5 (now clause 6).

On June 20, 1973,(20) during consideration in the Committee of the Whole of the Department of Transportation appropriation bill for fiscal 1974 (H.R. 8760), Mr. George H. Mahon, of Texas, raised a point of order against an amendment offered by Mr. Silvio O. Conte, of Massachusetts. Proceedings were as follows:

> Amendment offered by Mr. Conte: Page 4, after line 23, insert:
>
> RESERVE TRAINING
>
> For all necessary expenses for the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services; $25,000,000: *Provided*, That amounts equal to the obligated balances against appropriations for "Reserve training" for the two preceding years shall be transferred to and merged with this appropriation, and such merged appropriation shall be available as one fund, except for accounting purposes of the Coast Guard, for payment of obligations properly incurred against such prior year appropriations and against this appropriation. . . .
>
> MR. MAHON: Mr. Chairman, I insist on my point of order against the amendment. The amendment, in my opinion, is legislation on an appropriation bill and the funds are not authorized by law, so I make the point of order against the amendment. . . .
>
> THE CHAIRMAN:(1) The Chair is prepared to rule.
>
> Clause 2, rule XXI, prohibits unauthorized items from being included in amendments to a general appropriation bill, and also clause 5, rule XXI, has a prohibition against the reappropriation of unexpended balances of sums appropriated in prior years. The amendment is subject to a point of order for these reasons and the Chair sustains the point of order.

Later Rule as Superseding Statute

§ 3.6 A provision in the mutual security appropriation bill reappropriating unexpended balances was conceded to be a reappropriation proscribed by Rule XXI clause 5 (now clause 6), notwithstanding a provision in the Mutual Security Act of 1955 (§ 548, adopted July 8, 1955, 22 USC § 1767a) providing that "unexpended balances are authorized to be continued available," since the rules of the House readopted in 1959 contained a later expression of Congress to the contrary.

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20. 119 CONG. REC. 20538, 20539, 93d Cong. 1st Sess.

1. John M. Murphy (N.Y.).

On June 17, 1960,(2) during consideration in the Committee of the Whole of the bill (H.R. 12619) making appropriations for the mutual security program and related agencies for fiscal 1961, Mr. H. R. Gross, of Iowa, made a point of order against certain language in the bill:

Mr. Gross: Mr. Chairman, I make a point of order against the language on page 5, lines 1 through 8, inclusive, on the grounds it is not in order on a general appropriation bill under clause 5 of rule XXI. This language provides for the reappropriation of funds previously made available and is not permitted under the rules of the House—paragraph 5 of rule XXI which reads, in pertinent part, as follows:

> No general appropriation bill or amendment thereto shall be received or considered if it contains a provision reappropriating unexpended balances of appropriations.

It is true that the mutual security authorization law authorizes reappropriation of unexpended balances, but that authority was last contained in section 548 enacted in calendar year 1956. Subsequent to that time, and at the beginning of the 86th Congress, the House adopted rules from which I have just read. Inasmuch as this rulemaking action occurred subsequent to the latest action by law and there has been no enactment by statute on the particular matter during the present Congress, the rules of the House govern in this situation. Furthermore, it is well settled in the precedents that the power of the House to make its own rules may not be impaired by a law passed by a prior Congress. Therefore, I ask that my point of order be sustained.

Mr. [Otto E.] Passman [of Louisiana]: Mr. Chairman, the gentleman from Iowa [Mr. Gross] was considerate enough to advise us in advance of his intention to make this point of order. He has stated the facts of the matter accurately. I have discussed this point of order with other Members and we have carefully reviewed the situation. Most regretfully I must concede that the point of order is well taken.

The Chairman:(3) The Chair sustains the point of order.

Later Statute as Superseding Rule

§ 3.7 Rule XXI clause 5 (now clause 6), relating to the reappropriation of unexpended balances of appropriations, is not applicable when the reappropriation language is identical to the authorization language enacted subsequent to adoption of the rule; thus, where the Foreign Assistance Act of 1961 (Pub. L. No. 87-195) specifically provided that "unexpended balances of funds made available under the Mutual Security Act of 1954 . . . are hereby authorized to be continued available for general purposes for which appropri-

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2. 106 Cong. Rec. 13138, 86th Cong. 2d Sess.

3. Wilbur D. Mills (Ark.).

ated," the Speaker pro tempore held that a provision in an appropriation bill reappropriating the unexpended balances of such funds was in order, notwithstanding Rule XXI clause 5 (now clause 6), since the legislative authorization bill was a more recent expression of the will of the House.

On Sept. 5, 1961,(4) Mr. H. R. Gross, of Iowa, raised a point of order against consideration of a bill (H.R. 9033) making appropriations for foreign assistance and related agencies for fiscal year 1962. The proceedings were as follows:

MR. GROSS: Mr. Speaker, I make a point of order against consideration of the bill.

Mr. Speaker, I call the attention of the Chair to the Rules of the House of Representatives, 87th Congress, rule XXI, paragraph 5, which reads as follows:

> No general appropriation bill or amendment thereto shall be received or considered if it contains a provision reappropriating unexpended balances of appropriations; except that this provision shall not apply to appropriations in continuation of appropriations for public works on which work has commenced.

Mr. Speaker, the language is explicit and there is only one exception; that is for public works bills. I submit that this is not a public works bill.

Mr. Speaker, I call attention of the Chair to the language contained in H.R. 9033 for which consideration is asked, on page 3 of that bill, lines 8 through 24.

> Unobligated balances (not to exceed $50,000,000) as of June 30, 1961, of funds heretofore made available for military assistance under the authority of the Mutual Security Act of 1954, as amended, are, except as otherwise provided by law, hereby continued available for the fiscal year 1962 for the same general purposes for which appropriated.

Further, Mr. Speaker, section 101 on the same page reads:

> Amounts certified pursuant to section 1311 of the Supplemental Appropriation Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Mutual Security Act of 1954, as amended, for the same general purpose as any of the subparagraphs under "Economic assistance" except the subparagraph of this title for "Administrative expenses," are hereby continued available for the same period as the respective appropriations in such subparagraphs for the same general purpose.

Mr. Speaker, the language which I have read relates to funds not in the bill and clearly reappropriates unexpended balances of appropriations in violation of the rules of the House. . . .

THE SPEAKER PRO TEMPORE:(5) The Chair is prepared to rule.

Section 645 of the Foreign Assistance Act of 1961, which was passed by both Houses of Congress and signed by the

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4. 107 CONG. REC. 18133, 87th Cong. 1st Sess.

5. John W. McCormack (Mass.).

President yesterday, and is now Public Law 87-195, specifically authorizes:

> Unexpended balances of funds made available pursuant to the Mutual Security Act of 1954, as amended, are hereby authorized to be continued available for the general purposes for which appropriated, and may at any time be consolidated, and, in addition, may be consolidated with appropriations made available for the same general purposes under the authority of this act.

That is the will of both branches of the Congress as expressed very recently. The language in the pending appropriation bill is identical and consistent with the authority contained in section 645.

The Chair overrules the point of order, for the reason that the recent act of the Congress makes the actions of the Committee on Appropriations pursuant to law.(6)

§ 3.8 Language in an appropriation bill continuing the availability of unobligated balances of prior appropriations was held in order where provisions of the original authorizing legislation still in effect had provided for such a reappropriation, and a dollar limitation in the current authorization bill was interpreted to be a limitation on new appropriations only and not to restrict the reappropriation of unexpended balances of prior year funds.

On Sept. 8, 1965,(7) the Committee of the Whole was considering H.R. 10871, a foreign-aid appropriation bill for fiscal 1966. The Clerk read the following portion of the bill:

> Page 3, line 19:
>
> Unobligated balances as of June 30, 1965, of funds heretofore made available under the authority of the Foreign Assistance Act of 1961, as amended, except as otherwise provided by law, are hereby continued available for the fiscal year 1966, for the same general purposes for which appropriated and amounts certified pursuant to section 1311 of the Supplemental Appropriation Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Mutual Security Act of 1954, as amended, and the Foreign Assistance Act of 1961, as amended, for the same general purpose as any of the subparagraphs under "Economic Assistance" are hereby continued available for the same period as the respective appropriations in such subparagraphs for the same general purpose: *Provided*, That such purpose relates to a project or program previously justified to Congress and the Committees

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6. *Parliamentarian's Note:* The rules of the House, 87th Congress (including Rule XXI clause 5) were adopted on Jan. 3, 1961 (H. Res. 8). The foreign-aid authorization bill (S. 1983) was signed by the President on Sept. 4, 1961 (becoming Pub. L. No. 87-195). Section 645 of this law contained a specific authorization for the reappropriation of certain unexpended balances of mutual security funds.

7. 111 CONG. REC. 23181, 23182, 89th Cong. 1st Sess.

> on Appropriations of the House of Representatives and the Senate are notified prior to the reobligation of funds for such projects or programs.

Mr. [H. R.] **Gross** [of Iowa]: Mr. Chairman, I make a point of order against the language appearing on page 3, beginning with line 19 and running through the remainder of that page to and through line 13 on page 4.

I made the point of order on the basis that the authorization bill contains section 649, which reads as follows:

> Sec. 649. Limitation on aggregate authorization for use in fiscal year 1966.—Notwithstanding any other provision of this Act, the aggregate of the total amounts authorized to be appropriated for use during the fiscal year 1966, for furnishing assistance and for administrative expenses under this Act shall not exceed $3,360,000,000.

Mr. Chairman, I point out that listed at the top of page 3 of the committee report is the "carryover from prior year appropriations," in the amount of $158,352,000, which is a part of the unobligated carryover that is controlled under the language which I seek to strike under the point of order.

There is further "deobligations of prior-year obligations" listed in the report at the top of page 3. This is also controlled under the language that I seek to have stricken under the point of order.

Mr. Chairman, it is difficult to find the total amounts of all appropriations contained in the language to be found on pages 3 and 4, to which I have referred, but in order that this bill to be made to conform to the new section that was written into the authorization bill, which has been signed by the President of the United States and is now law, I submit that the language in the bill to which I have referred must be stricken.

The **Chairman**:[8] Does the gentleman from Louisiana desire to be heard on the point of order?

Mr. [Otto E.] **Passman** [of Louisiana]: Yes, Mr. Chairman.

It appears to me that we are dealing with two different acts.

Under the authorizing legislation there was a ceiling of $3,360 million of new appropriations. The bill before the House calls for only $3,285 million in new appropriations. Some part of the previous money appropriated is 1-year funds and does not necessarily carry over, and we are following the language in the authorizing legislation itself.

I refer to section 645 of the Foreign Assistance Act of 1961 as amended:

> Unexpended balances of funds made available pursuant to this Act, the Mutual Security Act of 1954, as amended or Public Law 86-735 are hereby authorized to be continued available for the general purposes for which appropriated, and may at any time be consolidated, and, in addition, may be consolidated with appropriations made available for the same general purposes under the authority of this Act.

Mr. Passman further made the argument, apparently accepted by the Chair, that since section 645 of the Foreign Assistance Act of 1961 had not been deleted from the current bill in conference, it appeared the conference intended that the right to continue unobligated funds should remain in the authorization.

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[8] Charles M. Price (Ill.).

The Chairman: The Chair is prepared to rule.

The gentleman from Iowa made his point of order against the language on line 19, page 3, and through line 13 on page 4.

The Chair, after careful examination of the sections in the conference report referred to by the various Members who have commented on this point of order, is constrained to agree that the language found in the conference report on page 25 referred to authorizations contained in that particular bill and pertains only to new money.

There is a definite feeling on the part of the Chair that it did not pertain to carryover funds or to the making available of funds which under section 645 would remain and continue to be available.

The Chair feels that section 645 is sufficient to make these carryover funds in order and the Chair, therefore, overrules the point of order.

Transfer of Funds

§ 3.9 A section in a general appropriation bill requiring the availability of funds available in other acts for employment of guards for government buildings and conferring certain powers on those guards and on the Postmaster General was conceded to be subject to a point of order and was ruled out as in violation of Rule XXI clauses 2 and 5 (clause 5 is now clause 6).

On Aug. 1, 1973,(9) during consideration in the Committee of the Whole of the Treasury, postal service, and executive office appropriations bill (H.R. 9590) for fiscal 1974, Mr. John D. Dingell, of Michigan, raised a point of order against certain language in the bill:

> Sec. 610. Funds made available by this or any other Act to the "Building management fund" (40 U.S.C. 490(f)), and the "Postal service fund" (39 U.S.C. 2003), shall be available for employment of guards for all buildings and areas owned or occupied by the United States or the Postal Service and under the charge and control of the General Services Administration or the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318), but shall not be restricted to certain Federal property as otherwise required by the proviso contained in said section, and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318a, 318b) attaching thereto penal consequences under the author-

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9. 119 Cong. Rec. 27291, 93d Cong. 1st Sess.

ity and within the limits provided in section 4 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318c).

MR. DINGELL: Mr. Chairman, I make, again, the same point of order against the entirety of section 610, beginning with line 4 on page 36.

MR. [THOMAS J.] STEED [of Oklahoma]: Mr. Chairman, we concede the point of order.

THE CHAIRMAN:(10) The point of order is conceded and sustained.

Holman Rule Not Applicable

§ 3.10 A reappropriation of unexpended balances, prohibited by Rule XXI clause 5 (now clause 6), is not in order on a general appropriation bill under the guise of a Holman rule exception to Rule XXI clause 2.

On Oct. 18, 1966,(11) the Committee of the Whole was considering H.R. 18381, a supplemental appropriation bill. Proceedings were as follows:

> Amendment offered by Mr. Bow: On page 16 after line 3 add a new section as follows:
>
> > Sec. 803. Notwithstanding any other provision, appropriations herein, as the President shall determine, shall, not later than 120 days after the date of enactment of this Act, be reduced in the aggregate by not less than $1,500,000,000 through substitution by reduction and transfer of funds previously appropriated for governmental activities that the President, within the aforementioned 120 days, shall have determined to be excess to the necessities of the services and objects for which appropriated.
>
> MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, I make a point of order against this amendment.
>
> THE CHAIRMAN:(12) The gentleman will state his point of order.
>
> MR. MAHON: The point of order is that the amendment goes far beyond the scope of this bill and applies to funds made available by other laws for which appropriations are not provided in the pending measure.
>
> I make the further point of order that the amendment would obviously impose additional duties on the President.
>
> THE CHAIRMAN: Does the gentleman from Ohio wish to be heard on the point of order?
>
> MR. [FRANK T.] BOW [of Ohio]: Yes, I do wish to be heard, Mr. Chairman.
>
> With respect to this amendment I shall not repeat the provisions of the Holman rule.
>
> I believe we have changed the Holman rule today by making it relate to this bill. The previous precedents of the House have been it must not necessarily apply to this particular bill when there is a retrenchment so, we are making new precedents today.
>
> This is a general appropriation bill affecting various agencies. Since the amendment also deals with and affects various appropriations of various agencies, it is germane.
>
> Again, there can be no speculation as to its retrenching Federal expendi-

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10. Richard Bolling (Mo.).
11. 112 CONG. REC. 27425, 89th Cong. 2d Sess.
12. James G. O'Hara (Mich.).

tures because it reduces appropriations in this bill—in this bill by $1.5 billion and requires the President to fund activities in this bill from previously appropriated funds that are excess to the necessities of the services and objects for which appropriated.

I point out again that the Holman rule does not go along with the decision suggested by the distinguished chairman of the committee that additional duties are involved.

Under the Holman rule it is a question of retrenchment of expenditures.

The legislation in this amendment is not unrelated to the retrenchment of expenditures. Instead, it is directly instrumental in accomplishing the reduction of expenditures. Thus, the proposed retrenchment and the legislation are inseparable and must be considered together.

"Cannon's Precedents", in volume VII, 1550 and 1551, holds that an amendment may include such legislation as is directly instrumental in accomplishing the reduction of expenditures proposed. That is the precise situation with respect to this pending amendment.

Again I cite "Cannon's Precedents," volume VII, 1511, which holds that language admitted under the Holman rule is not restricted in its application to the pending bill, and to the June 1, 1892, decision, to which I referred before, of the Committee of the Whole and its Chairman, that an amendment was in order under the Holman rule even though it changed existing law.

I say, Mr. Chairman, I believe if this is held to be out of order we will be changing the precedents and the rules of the House, and we will be destroying the Holman rule.

I urge the Chair to overrule the point of order.

The Chairman: The Chair is prepared to rule.

The amendment offered by the gentleman from Ohio specifies that appropriations herein, as the President shall determine, shall be reduced in the aggregate by not less than $1.5 billion. This reduction would be achieved by authorizing and directing the President to utilize previously appropriated funds for the activities carried in this bill.

The Chair feels that the amendment is clearly legislation. It places additional determinations and duties on the President and involves funds other than those carried in this bill.

Therefore, if the amendment were to be permitted it would have to qualify, as the gentleman has attempted to qualify it, under the Holman exception, under the Holman rule, rule XXI, clause 2.

In the opinion of the Chair, the Holman exception is inapplicable in this instance for three reasons.

First, the payment from a fund already appropriated of a sum which otherwise would be charged against the Treasury has been held not to be a retrenchment of expenditures under the Holman rule.

Chairman Hicks, of New York, ruled to the same effect when a proposition involving the Holman rule was before the House on January 26, 1921.

Second, it seems to the Chair that the language proposed by the gentleman from Ohio [Mr. Bow] authorizes the reappropriation of unexpended balances, a practice prohibited by clause 5 of rule XXI.

Third, the amendment goes to funds other than those carried in this bill and is not germane.

With respect to the latter point and the citation that has been given by the gentleman from Ohio, which is found in the precedents of the House, volume VII, 1511, the Chair will note that the proposition reduced the number of Army officers and provided the method by which the reduction should be accomplished. It was an amendment, as it appears in the citation, to a War Department appropriation bill and was therefore germane in spite of whatever the general proposition in the heading may have stated.

For the reasons given, the Chair will sustain the point of order made by the gentleman from Texas.

Limitation of Funds in Bill so Long as Previously Appropriated Funds Remain Unexpended

§ 3.11 To an appropriation bill, an amendment providing that no part of the funds therein should be available for expenditure so long as the funds theretofore appropriated for such purpose and unexpended exceeded three billion dollars, was held to be a proper limitation and not an affirmative reappropriation of unexpended balances.

On July 11, 1955,(13) the Committee of the Whole was considering H.R. 7224, a mutual security appropriation bill. The following proceedings took place:

> *Provided further,* That no part of any appropriation contained in this act shall be available for expense of transportation . . . and unpacking of household goods and personal effects in excess of an average of 5,000 pounds net but not exceeding 9,000 pounds net in any one shipment, but the limitations imposed herein shall not be applicable in the case of employees transferred to or serving in stations outside the continental United States under orders relieving them from a duty station within the United States prior to August 1, 1953.

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Whitten: On page 9, after line 9, add the following: "*Provided,* That no part of the funds herein appropriated shall be available for expenditure so long as the funds heretofore appropriated for such purposes and unexpended by the Mutual Security Administration exceed $3 billion."

MR. [OTTO E.] PASSMAN [of Louisiana]: Mr. Chairman, I make the point of order against the amendment that it is legislation on an appropriation bill and that it attempts to reappropriate money previously appropriated. . . .

THE CHAIRMAN:(14) As the Chair understands it, the amendment provides a very definite limitation to this appropriation. In the opinion of the Chair it

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13. 101 CONG. REC. 10235, 84th Cong. 1st Sess.

14. Francis E. Walter (Pa.).

is merely a limitation and therefore overrules the point of order.

Reappropriations Permitted Prior to Legislative Reorganization Act of 1946

§ 3.12 Prior to the Legislative Reorganization Act of 1946 which prohibited it,(15) the reappropriation of funds carried in a prior appropriation bill for purposes authorized by law was held in order on an appropriation bill.

On Dec. 6, 1944,(16) the Committee of the Whole was considering H.R. 5587, a supplemental appropriation bill. An amendment was offered and a point of order raised as indicated below:

> Amendment offered by Mr. Tarver: On page 19, line 3, insert:
>
> "CONSERVATION AND USE OF AGRICULTURAL LAND RESOURCES
>
> "The funds appropriated in the Department of Agriculture Appropriation Act, 1945, under the head 'Conservation and Use of Agricultural Land Resources,' notwithstanding any allocation thereof heretofore made by departmental order, may be used to discharge in full payments and grants earned by farmers in carrying out authorized soil and water conservation practices."
>
> MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order against the amendment that it is legislation on an appropriation bill and that it changes existing law.
>
> It is apparent from the reading of it that if it were not legislation, there would be no occasion for offering it, that if it did not require legislation to permit the reallocation of these funds there is no reason why the Department would not have done it before. There would be nothing to stop it. So it is perfectly apparent that this is legislation. . . .
>
> THE CHAIRMAN:(17) The Chair holds that this is a reappropriation of formerly appropriated money, so as to carry out existing law and, therefore, overrules the point of order.

§ 3.13 Prior to the Legislative Reorganization Act of 1946 which prohibited reappropriations,(18) the reappropriation of unobligated or unexpended balances for purposes authorized by law was in order, even though for different purposes than those for which originally appropriated.

On Feb. 28, 1936,(1) the Committee of the Whole was considering

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15. Act of Aug. 2, 1946, Ch. 753, § 139(c), 60 Stat. 833; Rule XXI clause 6, *House Rules and Manual* § 847 (1981).

16. 90 CONG. REC. 8941, 8942, 78th Cong. 2d Sess. See also 89 CONG. REC. 1068–70, 78th Cong. 1st Sess., Feb. 17, 1943; 81 CONG. REC. 3799, 3800, 75th Cong. 1st Sess., Apr. 23, 1937.

17. Herbert C. Bonner (N.C.).

18. Act of Aug. 2, 1946, Ch. 753, § 139(c), 60 Stat. 833; Rule XXI clause 6, *House Rules and Manual* § 847 (1981).

1. 80 CONG. REC. 2987, 74th Cong. 2d Sess.

H.R. 11418, an Agriculture Department appropriation bill. The following portion of the bill was under consideration:

FEDERAL-AID HIGHWAY SYSTEM

For carrying out the provisions of the act entitled "An act to provide that the United States shall aid the States in the construction of rural post roads, and for other purposes", approved July 11, 1916 (39 Stat., pp. 355-359), and all acts amendatory thereof and supplementary thereto, to be expended in accordance with the provisions of said act, as amended, including not to exceed $556,000 for departmental personal services in the District of Columbia, $60,000,000 to be immediately available and to remain available until expended, which sum is part of the sum of $125,000,000 authorized to be appropriated for the fiscal year 1936, by section 4 of the act approved June 18, 1934 (48 Stat. 994). . . .

MR. [JOHN] TABER [of New York]: Mr. Chairman, I offer an amendment, which I send to the desk.

The Clerk read as follows:

> Amendment offered by Mr. Taber: On page 70, line 24, after "$60,000,000", insert the following: "of the unobligated balances of funds allocated for other purposes than road and grade-crossing eliminations appropriated by Public Resolution No. 11, Seventy-fourth Congress, approved April 8, 1935."

MR. [WILLIAM M.] WHITTINGTON [of Mississippi]: Mr. Chairman, I make a point of order that it is legislation upon an appropriation. . . .

MR. TABER: Mr. Chairman, the gentleman is clearly in error, because this is a pure reappropriation of funds that were appropriated under the act of April 8, 1935, out of unobligated balances other than those providing for the elimination of grade crossings and roads. It involves a reappropriation only. . . .

THE CHAIRMAN:(2) The Chair is ready to rule.

The amendment offered by the gentleman from New York [Mr. Taber] seeks to reappropriate certain unobligated funds heretofore appropriated. The Chair has before him a syllabus which is directly applicable to the point raised. It may be found in Cannon's Precedents, section 1158, and is as follows:

> The reappropriation of unexpended balances for purposes authorized by law is in order, even though for different purposes than those for which originally appropriated.

The Chair thinks, therefore, that the amendment is in order, and overrules the point of order.

§ 3.14 Prior to the Legislative Reorganization Act of 1946 which prohibited it,(3) the reappropriation of an unexpended balance could be made in a general appropriation bill; but a reappropriation of an unexpended balance, to be applied to projects unauthorized by law, was not in order.

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2. Jere Cooper (Tenn.).
3. Act of Aug. 2, 1946, Ch. 753, § 139(c), 60 Stat. 833; Rule XXI clause 6, *House Rules and Manual* § 847 (1981).

On May 17, 1937,(4) the Committee of the Whole was considering for amendment a paragraph of the bill H.R. 6958, an Interior Department appropriation.

> For administrative expenses on account of the above projects, including personal services and other expenses in the District of Columbia and in the field, $750,000, in addition to and for the same objects of expenditure as are hereinbefore enumerated in paragraphs 2 and 3 under the caption "Bureau of Reclamation"; in all, $9,500,000, to be immediately available: *Provided,* That of this amount not to exceed $75,000 may be expended for personal services in the District of Columbia: *Provided further,* That the unexpended balances of the amounts appropriated from the Reclamation Fund, Special Fund, under the caption "Bureau of Reclamation, Construction," in the Interior Department Appropriation Act, fiscal year 1937, shall remain available for the same purposes for the fiscal year 1938.
>
> MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order against the language on page 79, line 4, beginning with the word "Provided" down to the end of the paragraph.
>
> Mr. Chairman, this includes a lot of allotments to irrigation projects, which would expire on the 30th of June, amounting to $33,000,000. As I understand, a great many of them have not been authorized by law. There is included, amongst others, the Gila project that was ruled out on a point of order previously. . . .
>
> THE CHAIRMAN:(5) The Chair is ready to rule. . . .
>
> The Chair invites attention to the fact it is obvious that quite a number of projects are sought to be covered by the provision here contained. The Chair feels that under the rule cited by the gentleman from Nevada there can be no question but what unappropriated balances may be reappropriated, but the Chair is unable to see how this rule meets the situation here presented, because the question here is whether or not these various projects have been authorized by law. The Chair feels the burden of proof is on those supporting the projects and the provision contained in the bill to make some satisfactory showing, to the effect that the projects have been authorized. The Chair invites attention to the fact that such a showing has not been made. It follows, therefore, that the language to which the point of order has been made, in the opinion of the Chair, would be legislation on an appropriation bill, a proper showing not having been made that these items have been authorized by law.
>
> The Chair is of the opinion this provision is not in order and, therefore, sustains the point of order.

Works in Progress

§ 3.15 Language in an appropriation bill providing that the Public Works Administration allotments (made available to the Bureau of Reclamation,

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4. 81 CONG. REC. 4684, 4685, 75th Cong. 1st Sess. See also 91 CONG. REC. 2370, 79th Cong. 1st Sess., Mar. 16, 1945.

5. Jere Cooper (Tenn.).

pursuant to the National Industrial Recovery Act, either by direct allotments or by transfer of allotments originally made from the Emergency Relief Appropriation Act of 1937) should remain available for the purpose for which allotted during the fiscal year 1939 was held in order under the principle relating to "works in progress."

On Mar. 2, 1938,(6) the Committee of the Whole was considering the following paragraph of H.R. 9621, an Interior Department appropriation:

> The Public Works Administration allotments made available to the Department of the Interior, Bureau of Reclamation, pursuant to the National Industrial Recovery Act of June 16, 1933, either by direct allotments or by transfer of allotments originally made to another Department or agency, and the allocations made to the Department of the Interior, Bureau of Reclamation, from the appropriation contained in the Emergency Relief Appropriation Act of 1935 and the Emergency Relief Appropriation Act of 1937, shall remain available for the purposes for which allotted during the fiscal year 1939.

Mr. [John] Taber [of New York]: Mr. Chairman, I make the point of order against the paragraph upon the ground that it is not authorized by law.

The Chairman:(7) Does the gentleman from Nevada desire to be heard on the point of order?

Mr. [James G.] Scrugham [of Nevada]: Mr. Chairman, the unexpended balances proposed to be appropriated by this paragraph are lawful projects which have qualified as being in order under the rules of the House for one or more of the following reasons:

First. That they are for improvements of existing projects.

Second. That the work on them is in progress.

Third. That there has been a finding of feasibility by the President, which automatically authorizes appropriations, as provided by the reclamation law, title 43, sections 412, 413, and 414.

The Chairman: The gentleman from Nevada states that all of these projects are already under way and that this paragraph simply reappropriates money already available.

Mr. Taber: These allotments have been made for all sorts of projects not authorized by law, and yet the adoption of this provision would authorize every project that has not yet been authorized for which an allotment has been made.

The Chairman: The gentleman states that these projects are already under way.

Mr. Taber: That would not authorize them.

The Chairman: It authorizes reappropriation of appropriations heretofore made if the work is in progress. The Chair, therefore, overrules the point of order.

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(6) 83 Cong. Rec. 2706, 2707, 75th Cong. 3d Sess.

(7) Marvin Jones (Tex.).

Parliamentarian's Note: While this decision predates the enactment of clause 5 (now clause 6) of Rule XXI as part of the Legislative Reorganization Act of 1946 (which rule prohibits the reappropriation of unexpended balances except with respect to appropriations in connection with appropriations for public works on which work has commenced), clause 2 of Rule XXI, in effect on the date of this decision, likewise precluded appropriations for purposes not authorized by law unless in continuation of appropriations for public works and objects already in progress. Thus this decision stands for the proposition that reappropriations of unexpended balances may be included on general appropriation bills at least if made for the same unauthorized public works in progress for which originally made. For a discussion of precedents involving public works in progress, see Chapter 26, infra (including a similar ruling made on May 13, 1941, discussed in that chapter).

§ 4. Appropriations in Legislative Bills

A House rule provides:

> No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations, nor shall an amendment proposing an appropriation be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A question of order on an appropriation in any such bill, joint resolution, or amendment thereto may be raised at any time.(8)

Rulings on points of order under the above provision have frequently depended on whether language allegedly making an appropriation was in fact merely language authorizing an appropriation.(9) For example language in a bill authorizing an appropriation of not less than a certain amount for a specified purpose has been held not to be an appropriation.(10)

Points of order under this rule, while in order "at any time," are received at any time while the amendment or provision of the bill is pending under the five-minute rule. See discussion in notes at *House Rules and Manual* § 846 (1981), citing decision of Mar. 18, 1946.

Points of order based on the above rule have sometimes been waived by resolution.(11)

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8. Rule XXI clause 5, *House Rules and Manual* § 846 (1981).
9. See §§ 4.34 et seq., infra.
10. See § 4.34, infra.
11. See § 4.3, infra.

Generally

§ 4.1 Language in a bill reported by a legislative committee reappropriating, making available or diverting an appropriation or a portion of an appropriation already made for one purpose to another is not in order.

On Apr. 7, 1936,(12) the House was considering H.R. 12037, the tobacco compact bill. A point of order was raised and, after debate, Speaker Joseph W. Byrns, of Tennessee, ruled as follows:

> THE SPEAKER: The Chair is ready to rule.
>
> The gentleman from Michigan [Mr. Mapes] makes a point of order against section 7(a), which reads as follows:
>
>> For the purpose of administering this act the Secretary of Agriculture is hereby authorized to expend $300,000, or so much thereof as may be necessary for that purpose, out of funds appropriated by section 12(a) of the Agricultural Adjustment Act, as amended.
>
> The gentleman from Michigan calls attention to clause 4 of rule XXI, which provides:
>
>> No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations, nor shall an amendment proposing an appropriation be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A question of order on an appropriation in any such bill, joint resolution, or amendment thereto may be raised at any time.
>
> The question, of course, arises as to whether or not an appropriation made by a preceding Congress or by this Congress for a particular purpose may be diverted for another purpose not contemplated at the time the appropriation was made, under the rule which the Chair has just read.
>
> The gentleman from Michigan has read rulings which were made in the Seventy-third Congress, first session, in which it is said—
>
>> Language reappropriating, making available or diverting an appropriation or a portion of an appropriation already made for one purpose to another is not in order.
>
> Of course, we all know that the Committee on Agriculture is not authorized under the rules to report appropriations. In the opinion of the Chair it is very clear, in a reading of the section referred to, that the language constitutes a diversion of funds heretofore made by the Congress for an entirely different purpose and, therefore, sustains the point of order of the gentleman from Michigan [Mr. Mapes] against section 7(a).

Portion of Bill Subject to Point of Order

§ 4.2 Rule XXI clause 4 (subsequently clause 5) is limited in application to the objectionable language in a bill and not to the bill in its entirety.

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12. 80 CONG. REC. 5108, 5109, 74th Cong. 2d Sess.

The rule cited above has been held to disallow the following language in a bill reported by a legislative committee, without at the same time disallowing the remainder of the bill:

> *Provided further*, That out of revenues from and appropriations for the Alaska Railroad, there is authorized to be used such amount thereon as may be necessary for the purchase of property of the Mount McKinley Tourist & Transportation Company, and the purchase, construction, operation and maintenance of the facilities for the public as herein authorized.

Thus, on Mar. 6, 1940,(13) a Member raised a point of order against the language quoted above during consideration of H.R. 4868, a bill concerning Mount McKinley National Park. The following exchange took place:

> MR. [EVERETT M.] DIRKSEN [of Illinois]: Mr. Chairman, I rise to a point of order.
>
> THE CHAIRMAN:(14) The gentleman will state it.
>
> MR. DIRKSEN: I make the point of order against the entire bill on the ground that the provisions beginning in line 23, on page 2, are in contravention of the rule prohibiting appropriations in a bill for legislative purposes.
>
> MR. [ROBERT A.] GREEN [of Florida]: Mr. Chairman, I concede the point of order and desire to offer an amendment.
>
> MR. [JOHN] TABER [of New York]: But, Mr. Chairman, under the point of order the bill goes out.
>
> MR. [SAM] RAYBURN [of Texas]: Oh, no; it does not go out. The enacting clause is still there, and anyone has authority to offer any amendment that he desires under the rules of the House.
>
> THE CHAIRMAN: The Chair is prepared to rule.
>
> This provision comes under clause 4 of rule XXI, which, in effect, prohibits appropriations being made by committees not having jurisdiction over appropriations. Beginning with line 23 on page 2 of the bill provision is made for an appropriation. Therefore, the point of order is sustained.

Waiver of Points of Order

§ 4.3 Consideration of a legislative bill has sometimes taken place pursuant to a resolution waiving points of order against the bill, when a provision in the bill could constitute an appropriation in violation of Rule XXI clause 4 (now clause 5).

On Apr. 12, 1967,(15) a Member addressed Speaker John W. McCormack, of Massachusetts, as follows:

> MR. [CLAUDE D.] PEPPER [of Florida]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 411 and ask for its immediate consideration.

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13. 86 CONG. REC. 2457, 76th Cong. 3d Sess.
14. A. Willis Robertson (Va.).
15. 113 CONG. REC. 9121-23, 9134, 90th Cong. 1st Sess.

The Clerk read the resolution, as follows:

> H. Res. 411
>
> *Resolved,* That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5404) to amend the National Science Foundation Act of 1950 to make changes and improvements in the organization and operation of the Foundation, and for other purposes, and all points of order against said bill are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Astronautics, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. . . .

Mr. [Durward G.] Hall [of Missouri]: Mr. Speaker . . . .

I wonder if the gentleman can explain to the House why in line 7, page 1, House Resolution 411, all points of order against the bill are waived in the wisdom of the committee?

Mr. Pepper: I will ask the distinguished author of the bill, the gentleman from Connecticut [Mr. Daddario], if he will make the response to the able gentleman from Missouri, and I yield to him for that purpose.

Mr. [Emilio Q.] Daddario: Mr. Speaker, I thank the gentleman for yielding. I would advise the gentleman from Missouri that on page 17, line 12, section (g), there is reference to the transfer of funds from one department to another.

[Note: the language referred to sought to permit funds available to any department of the government for scientific research to be transferred to the National Science Foundation under certain conditions.]

Transfer or Diversion of Funds to New Purposes

§ 4.4 The diversion or reappropriation of funds to a new purpose is an appropriation and is therefore not in order on a rivers and harbors bill.

On Apr. 8, 1935,(16) the Committee of the Whole was considering H.R. 6732, a bill dealing with the construction, repair, and preservation of public works on rivers and harbors. An amendment was offered and a point of order raised as indicated below:

Mr. [James W.] Mott [of Oregon]: Mr. Chairman, I offer an amendment, which is on the Clerk's desk.

The Clerk read as follows:

> Amendment offered by Mr. Mott: On page 1, line 9, after the word "documents", change the colon to a

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16. 79 Cong. Rec. 5277, 5278, 74th Cong. 1st Sess.

period and add the following: "The Administrator of Public Works is hereby directed to allot and make available for the prosecution of said authorized works of improvement of rivers and harbors and other waterways, such sum or sums out of the funds provided in House Joint Resolution 117 as may be necessary to prosecute and complete such works or improvements."

MR. [JOSEPH J.] MANSFIELD [of Texas]: Mr. Chairman, I desire to make a point of order to the amendment. As I understand the amendment, it is the equivalent of an appropriation. It applies to a matter not within the jurisdiction of this committee. We have no jurisdiction over legislation of the Public Works Administration. Furthermore, I consider that amendment as an appropriation. . . .

MR. [JOHN J.] O'CONNOR [of New York]: Mr. Chairman, as I heard the amendment read, it makes an appropriation, because it directs the Administrator of Public Works to allocate part of the funds already appropriated for these specific purposes. This is at least a reappropriation and comes within the rule forbidding appropriations coming from legislative committees. . . .

THE CHAIRMAN:(17) . . . This bill, of course, cannot carry an appropriation. The gentleman offers an amendment to the effect that the Administrator of Public Works is hereby directed to allot and make available for the prosecution of such authorized works of improvement on rivers and harbors and other waterways such sum or sums from the funds provided in House Joint Resolution 117.

This, clearly, is a diversion of funds already appropriated, which is tantamount, in the opinion of the Chair, to an appropriation.

The Chair, therefore, sustains the point of order.

§ 4.5 Language in a legislative bill to reorganize the government, providing for the transfer of unexpended balances of appropriations and making such funds available for expenditure, was held to be an appropriation in violation of Rule XXI clause 4 (now clause 5).

On Apr. 8, 1938,(18) the Committee of the Whole was considering S. 3331, a government reorganization bill. At different points the Clerk read two sections as follows, and proceedings ensued as indicated below:

Sec. 410. Such of the personnel of the General Accounting Office employed in connection with the functions exercised by the General Accounting Office through the Audit Division of that Office, and such of the unexpended balances of appropriations available to the General Accounting Office for the exercise of such functions, as the President shall deem to be necessary to enable the Auditor General to exercise the functions vested in and imposed upon him by this title, are transferred to the office of the Auditor General, and any unexpended balances of appropriations so transferred shall hereafter be available to the Auditor General for the purpose of exercising the functions of his office and for otherwise carrying out the provisions of this title: *Provided,* That the transfer of personnel under this section shall be without change in classification or compensation . . . *Provided further,* That such of the personnel so transferred who do not already possess a classified civil-service status shall not acquire such status by reason of such transfer. . . .

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(17) William W. Arnold (Ill.).

(18) 83 CONG. REC. 5083–98, 75th Cong. 3d Sess.

Sec. 307. There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated such sums as may be necessary to carry out the provisions of this title.

Sec. 308. The provisions of this title shall become effective 60 days after its enactment.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the words beginning in line 4, of page 57, "and such of the unexpended balances of appropriations available to the General Accounting Office for the exercise of such functions"; and then, beginning in line 10, "and any unexpended balances of appropriations so transferred shall hereafter be available to the auditor general for the purpose of exercising the functions of his office and for otherwise carrying out the provisions of this title."

MR. FRED M. VINSON [of Kentucky]: Mr. Chairman, I concede the point of order.

THE CHAIRMAN:(19) The Chair sustains the point of order on the ground that it is in conflict with clause 4 of Rule XXI and the language to which the point of order is addressed is stricken from the title.

Subsequently in the proceedings, a point of order based on the same grounds was sustained against the following language:

Sec. 420. Such portions of the unexpended balances of appropriations or other funds available for the United States Civil Service Commission, the offices of the Civil Service Commissioners, and all other offices of such Commission, as the President shall deem necessary, are transferred to the Administration. Unexpended balances of appropriations or other funds available for such Commission or offices, not so transferred pursuant to the President's determination under this section, shall be impounded and returned to the Treasury.

§ 4.6 A provision in a bill reported by a legislative committee providing that such part as the President might determine of the unexpended balances of appropriations, allocations, or other funds available for expenditure in connection with the Manhattan Engineer District were transferred to the commission and were to be available for expenditure for carrying out the provisions of the act was held to be an appropriation in violation of Rule

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19. John W. McCormack (Mass.).

XXI clause 4 (now clause 5), and not in order.

On July 20, 1946,(20) the Committee of the Whole was considering S. 1717, the Atomic Energy Act of 1946. At one point the Clerk read as follows, and proceedings ensued as indicated below:

APPROPRIATIONS

Sec. 18. (a) There are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this act. The acts appropriating such sums may appropriate specified portions thereof to be accounted for upon the certification of the Commission only. Funds appropriated to the Commission shall, if obligated by contract during the fiscal year for which appropriated, remain available for expenditure for 4 years following the expiration of the fiscal year for which appropriated. After such 4-year period, the unexpended balances of appropriations shall be carried to the surplus fund and covered into the Treasury.

(b) Such part as the President may determine of the unexpended balances of appropriations, allocations, or other funds available for expenditure in connection with the Manhattan Engineer District are hereby transferred to the Commission and shall be available for expenditure for the purpose of carrying out the provisions of this act.

Mr. [Francis H.] Case of South Dakota: Mr. Chairman, I make a point of order against subparagraph (b) on page 52, lines 18 to 23, inclusive, on the ground that it constitutes an appropriation and may not be reported by the Committee on Military Affairs, which is without jurisdiction to report appropriations. I am constrained to make this point of order, Mr. Chairman, for two or three reasons. The appropriations now carried in the War Department appropriation bill for $375,000,000 were made in a larger amount than would have been made for 1 year only because the Budget request was for only $200,000,000. The additional $175,000,000 was added in place of contractual authorizations for obligations to mature in fiscal 1948. The total appropriation was made for the military features of the atomic service. It is now proposed that these appropriations be transferred for the purpose of carrying out the provisions of this act, which is much broader, providing for loans, providing for the development of civilian production and licensing, and many other features not contemplated in the appropriations for the Military Establishment. Consequently, this paragraph constitutes an appropriation, and I make the point of order that it may not be reported in this bill.

The Chairman:(1) Does the gentleman from Kentucky desire to be heard on the point of order?

Mr. [Andrew J.] May [of Kentucky]: I do not, Mr. Chairman.

The Chairman: The Chair is ready to rule. In the opinion of the Chair, the language referred to by the gentleman from South Dakota, beginning on line

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20. 92 Cong. Rec. 9554, 9555, 79th Cong. 2d Sess.

1. Wilbur D. Mills (Ark.).

18, page 52, and extending through line 23, is in violation of clause 4 of rule 21. Therefore, the Chair sustains the point of order.

§ 4.7 To a bill establishing an Airways Modernization Board and providing for transfer of personnel, records, and the like, authority to transfer "unexpended balances of appropriations, allocations, and other funds available," was ruled out as an appropriation reported from a legislative committee in violation of Rule XXI clause 4 (now clause 5).

On July 30, 1957,[2] the Committee of the Whole was considering S. 1865, a bill providing for the development and modernization of the national system of navigation and traffic control facilities to serve present and future needs of civil and military aviation. At one point the Clerk read as follows:

> TRANSFER OF RELATED FUNCTIONS
>
> Sec. 4. The Board, upon unanimous decision and with approval of the President, may transfer to itself any functions (including powers, duties, activities, facilities, and parts of functions) of the Departments of Defense or Commerce or of any officer or organizational entity thereof which relate primarily to selecting, developing, testing, or evaluating systems, procedures, facilities, or devices for safe and efficient air navigation and air traffic control. In connection with any such transfer, the President may provide for appropriate transfers of records, property, necessary civilian personnel, and unexpended balances of appropriations, allocations, and other funds available or to be made available of the officers, department, or other agency from which the transfer is made.

MR. [FRANK T.] BOW [of Ohio]: Mr. Chairman, a point of order.

THE CHAIRMAN:[3] The gentleman will state it.

MR. BOW: Mr. Chairman, I make the point of order against the language in section 4, page 7, beginning on line 12, reading "and unexpended balances of appropriations, allocations, and other funds available or" as being an appropriation on a legislative bill.

THE CHAIRMAN: Does the gentleman from Arkansas desire to be heard on the point of order?

MR. [OREN] HARRIS [of Arkansas]: Mr. Chairman, we concede the point of order.

THE CHAIRMAN: The Chair is prepared to rule. The Chair has examined the language to which the point of order has been made, and after consideration finds that the language is obnoxious to clause 4 of rule 21 of the House and therefore sustains the point of order.

§ 4.8 In a bill reported from the Committee on Banking and Currency, providing inter alia, a revolving fund in the Treasury for higher education facility

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[2] 103 CONG. REC. 13056, 85th Cong. 1st Sess.

[3] George H. Mahon (Tex.).

loans, a provision authorizing the Commissioner of Education to "transfer to the fund available appropriations under § 303(c) [of the Higher Education Act] to provide capital for the fund," was held to constitute an appropriation and was ruled out as a violation of Rule XXI clause 4 (now clause 5).

On May 18, 1966,[4] during consideration in the Committee of the Whole of the Participation Sales Act of 1966 (H.R. 14544) a point of order was raised against a provision thereof, as follows:

REVOLVING LOAN FUND

"Sec. 305. (a) There is hereby created within the Treasury a separate fund for higher education academic facilities loans (hereafter in this section called "the fund") which shall be available to the Commissioner without fiscal year limitation as a revolving fund for the purposes of this title. The total of any loans made from the fund in any fiscal year shall not exceed limitations specified in appropriation Acts.

"(b)(1) The Commissioner is authorized to transfer to the fund available appropriations provided under section 303(c) to provide capital for the fund. All amounts received by the Commissioner as interest payments or repayments of principal on loans, and any other moneys, property, or assets derived by him from his operations in connection with this title, including any moneys derived directly or indirectly from the sale of assets, or beneficial interests or participations in assets of the fund, shall be deposited in the fund. . . ."

MR. [CHARLES R.] JONAS [of North Carolina]: Mr. Chairman, I make a point of order against the language on page 8 of the bill, lines 5, 6, and 7 through the word "fund." The point is based upon my feeling that the language violates rule XXI, clause 4, of the Rules of the House of Representatives.

MR. [WRIGHT] PATMAN [of Texas]: Mr. Chairman, I desire to be heard on the point of order.

The appropriations referred to are future appropriations authorized and to be made for the specific purpose of making the transfers here authorized. This is not a case of changing the object of past appropriations, and the point of order should be overruled.

That refers to section 303(c), which I have before me now. It provides:

> For the purpose of making payments into the fund established under section 305, there is hereby authorized to be appropriated . . . .

It is not making the appropriation; it is authorizing the appropriation.

I respectfully submit, Mr. Chairman, that this is not subject to the point of order.

THE CHAIRMAN:[5] . . . The gentleman from North Carolina [Mr. Jonas] makes a point of order to the language appearing on page 8, lines 5 through 7, to the end of the sentence on that line, on the ground that it is in violation of rule XXI of the Rules of the House of Representatives.

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[4] 112 CONG. REC. 10913, 10918, 89th Cong. 2d Sess.

[5] Eugene J. Keogh (N.Y.).

The Chair has examined the language and has listened attentively to the gentleman from Texas, but is of the opinion that since this language directs a transfer of available appropriations it is in fact in violation of rule XXI; and therefore sustains the point of order.

§ 4.9 Where a legislative bill (reported from the Committee on Banking and Currency) authorized certain government agencies that extend credit to individuals to use any appropriated funds or other amounts available to them for certain new purposes specified in the bill, the provision was conceded to be in violation of Rule XXI clause 4 (now clause 5).

On May 18, 1966,(6) the Committee of the Whole was considering H.R. 14544, the Participation Sales Act of 1966. At one point the Clerk read as follows, and proceedings ensued as indicated below:

> Sec. 2. (a) Section 302(c) of the Federal National Mortgage Association Charter Act is amended [by inserting at a designated point]:
>
> . . . Any trustor creating a trust or trusts hereunder is authorized to purchase, through the facilities of the trustee, outstanding beneficial interests or participations to the extent of the amount of his responsibility to the trustee on beneficial interests or participations outstanding, and to pay his proper share of the costs and expenses incurred by the Federal National Mortgage Association as trustee pursuant to the trust instrument, and for these purposes may use any appropriated funds or other amounts available to him for the general purposes or programs to which the obligations subjected to the trust are related.
>
> (3) If any trustor shall guarantee to the trustee the timely payment of obligations he subjects to a trust pursuant to this subsection, and it becomes necessary for such trustor to meet his responsibilities under such guaranty, he is authorized to fulfill such guaranty by using any appropriated funds or other amounts available to him for the general purposes or programs to which the obligations subjected to the trust are related. . . .

MR. [CHARLES R.] JONAS [of North Carolina]: Mr. Chairman, a point of order.

THE CHAIRMAN:(7) The gentleman will state the point of order.

MR. JONAS: Mr. Chairman, I make a point of order against the language appearing on page 4, line 22, beginning with the word "and", which language is as follows: "and for these purposes may use any appropriated funds or other amounts available to him for the general purposes or programs to which the obligations subjected to the trust are related."

Mr. Chairman, I make the point of order against this language in the bill on the ground that it violates clause 4,

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6. 112 CONG. REC. 10893, 10894, 89th Cong. 2d Sess.

7. Eugene J. Keogh (N.Y.).

rule XXI, of the rules of the House of Representatives, which requires that bills making appropriations may not originate in committees other than the Committee on Appropriations.

The Chairman: Does the gentleman from Texas desire to be heard on the point of order?

Mr. [Wright] Patman [of Texas]: Mr. Chairman, we concede the point of order.

The Chairman: The Chair sustains the point of order.

Mr. Jonas: Mr. Chairman, I make a point of order against the language appearing on page 5, line 5, beginning with the word "he" and continuing through lines 5, 6, 7, and 8 to the word "related," which language is as follows: "he is authorized to fulfill such guaranty by using any appropriated funds or other amounts available to him for the general purposes or programs to which the obligations subjected to the trust are related."

Mr. Chairman, I make the point of order against this language on the ground that it violates clause 4, rule XXI of the House of Representatives.

Mr. Patman: Mr. Chairman, I wonder if the gentleman from North Carolina has added some language which he does not really intend to include in his point of order? As I understand, the gentleman intended to make a point of order against the language on page 5, line 5, starting with the word "by" down to and including the word "related" on line 8. In other words, as I understand, the gentleman intends to make a point of order against the language reading as follows: "by using any appropriated funds or other amounts available to him for the general purposes or programs to which the obligations subjected to the trust are related."

Mr. Jonas: Mr. Chairman, the gentleman from Texas is correct and it was my purpose to have the point of order lie against the language on page 5, line 5, beginning with the word "by" down to and including the word "related" on line 8.

As I said, Mr. Chairman, I make the point of order against this language on the ground that it violates clause 4, rule XXI, of the House of Representatives.

Mr. Patman: Mr. Chairman, I concede the point of order.

The Chairman: The Chair sustains the point of order.

Unobligated Funds Previously Appropriated for Same or Related Purposes

§ 4.10 Language in a legislative bill providing that the cost of surveys therein authorized would be paid from the appropriation theretofore or thereafter made for such purposes was held to be an appropriation and therefore in violation of Rule XXI clause 4 (now clause 5).

On July 29, 1937,(8) the Committee of the Whole was considering House Joint Resolution 175, a bill to authorize the submission to Congress of a comprehensive national plan for the prevention and

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8. 81 Cong. Rec. 7838–40, 75th Cong. 1st Sess.

control of floods of all the major rivers of the United States. The following proceedings took place:

The Clerk read as follows:

> Sec. 2. There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this resolution.

With the following committee amendment:

> Strike out all of section 2 and insert: "The cost of surveys and preparing plans as herein authorized shall be paid from appropriations heretofore or hereafter made for such purposes."

Mr. [Clarence] Cannon of Missouri: Mr. Chairman, I regret to have to make a point of order against the committee amendment. The amendment changes the authorization to a direct appropriation, and, of course, an appropriation is not in order on a legislative bill. . . .

The Chairman:[9] The language against which the point of order is raised reads as follow:

> The cost of surveys and preparing plans as herein authorized shall be paid from the appropriations heretofore or hereafter made for such purposes. . . .

It seems clear to the Chair that the language of the amendment is prohibited by rule XXI, section 4, and, therefore, the Chair sustains the point of order.

§ 4.11 Language in a legislative bill making available unobligated balances of appropriations "heretofore" made to carry out the provisions of the bill was held to be an appropriation in violation of Rule XXI clause 4 (now clause 5) and therefore not in order.

On Mar. 18, 1946,[10] the Committee of the Whole was considering H.R. 5407, a bill granting certain powers to the Federal Works Administrator. The Clerk read as follows, and proceedings ensued as indicated below:

> *Be it enacted, etc.,* That the Federal Works Administrator is hereby authorized under the provisions of the Public Buildings Act of May 25, 1926, as amended (40 U.S.C. 341-347), and as hereby further amendmend—
>
> (a) For projects outside of the District of Columbia: To construct extensions to the marine hospitals at Seattle, Wash., and San Francisco, Calif. . . . and design new building projects where the sites are in Government ownership, notwithstanding the fact that appropriations for construction work shall not have been made. The total limit of cost for the foregoing shall be $13,000,000 and the unobligated balances of appropriations heretofore made for the construction of projects outside the District of Columbia are hereby made available for this purpose.
>
> (b) To construct an additional building for the General Accounting Office. . . . The unobligated balances of appropriations heretofore made for the

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[9] Emmet O'Neal (Ky.).

[10] 92 Cong. Rec. 2371, 2372, 79th Cong. 2d Sess.

building are hereby made available for the enlarged project, including the acquisition of addition land, and contracts may be entered into for construction work within the full limit of cost pending additional appropriations.

(c) To acquire additional land in and contiguous to the area in the District of Columbia defined in the act of March 31, 1938 (52 Stat. 149), under a limit of cost of $2,000,000. Funds for this purpose are hereby made available from the unobligated balances of appropriations heretofore made for the construction of buildings outside the District of Columbia.

Mr. [John] Taber [of New York]: Mr. Chairman, a point of order.

The Chairman:(11) The gentleman will state it.

Mr. Taber: I make a point of order against the words beginning on page 2, line 4: "and the unobligated balances of appropriations heretofore made for the construction of projects outside the District of Columbia are hereby made available for this purpose"; on the ground that it is an appropriation and coming from a committee not authorized to report appropriation bills to the House. . . .

Mr. [Francis H.] Case of South Dakota: Mr. Chairman, I desire to make a point of order against the language in paragraph (b) and paragraph (c), and in paragraph (b) I make the point of order against the language beginning in line 15 which reads:

> The unobligated balances of appropriations heretofore made for the building are hereby made available for the enlarged project, including the acquisition of additional land, and contracts may be entered into for construction work within the full limit of cost pending additional appropriations. . . .

Mr. [Fritz G.] Lanham [of Texas]: I call the gentleman's attention to the fact that there is a committee amendment striking out section (b).

Mr. Case of South Dakota: But the committee amendment has not been made. Consequently, I am making a point of order lest, by some slip, the amendment might not be accepted. I make the point of order that that would make appropriations for an unauthorized project by means of an appropriation reported by a committee without jurisdiction. . . .

Mr. Lanham: Mr. Chairman, I must reluctantly concede the points of order. I do it reluctantly because I had hoped they would not be made.

The Chairman: Does the Chair understand that the gentleman from Texas concedes each point of order?

Mr. Lanham: The gentleman from Texas does reluctantly concede the points of order.

The Chairman: The Chair is ready to rule.

The point of order made by the gentleman from New York [Mr. Taber] and the two points of order made by the gentleman from South Dakota [Mr. Case] are sustained by reason of the fact the language against which they are made is tantamount to new appropriations; and the language is stricken from the bill in each instance.

§ 4.12 Provisions in a bill reported from a legislative committee that funds appropriated and made available under speci-

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11. Fadjo Cravens (Ark.).

fied items in the Agricultural Appropriation Act of 1946, to the extent that such funds have been validly obligated, should be continued available for use by the Farmers' Home Corporation established in the bill, and that certain appropriated funds should be transferred from one agency to another agency created in the bill, were held to be appropriations in violation of Rule XXI clause 4 (now clause 5), and therefore not in order.

On Apr. 9, 1946,(12) the Committee of the Whole was considering H.R. 5991, a bill creating the Farmers' Home Corporation. The following proceedings took place:

> MR. [MALCOLM C.] TARVER [of Georgia]: Mr. Chairman, I have several points of order to submit.
>
> My first point of order is against the language contained on page 5, lines 4 to 15, inclusive, on the ground that it constitutes an appropriation upon a legislative bill and is out of order for that reason. That language reads as follows:
>
>> (c) The funds appropriated, authorized to be borrowed, and made available under the items "Farmers' crop production and harvesting loans" (under the heading "Farm Credit Administration"), "Loans, grants, and rural rehabilitation", and "Farm tenancy", in the Department of Agriculture Appropriation Act, 1946, to the extent that such funds are validly obligated or committed by the Secretary of Agriculture, the Governor of the Farm Credit Administration, or their delegates, shall not lapse on June 30, 1946, but shall be continued available for use by the Corporation in fulfilling such obligations or commitments, subject to the limitations set forth in the acts appropriating or authorizing such funds.
>
> I make the same point of order against the language contained on page 6, lines 4 to 18, inclusive, as follows:
>
>> (e) All funds made available by appropriation or authorization to the Secretary of Agriculture for the fiscal year 1947 for loans and administrative expenses for carrying on the farm tenancy program shall be available to the Corporation for loans under the provisions of section 40(d)(13)(A) hereof and for administrative expenses incident thereto. All such appropriations and authorizations for loans, grants, and rural rehabilitation and farmers' crop production and harvesting loans shall be available to the Corporation for loans for the purposes of section 40(d)(13)(B) hereof and for administrative expenses incident thereto. The limitations on the amounts of each such appropriations and authorization for loans and administrative expenses for each such purpose shall be observed by the Corporation.
>
> I make the same point of order against the language contained on page 6, lines 19 to 25, inclusive, and on page 7, lines 1 to 5, as follows:
>
>> (f) There is hereby transferred to the Corporation from the revolving fund established for the purpose of increasing the capital of the regional agricultural credit corporations, pursuant to section 84 of the Farm Credit Act of 1933, approved June

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12. 92 CONG. REC. 3375, 79th Cong. 2d Sess.

16, 1933, as amended (U.S.C., 1940 ed., title 12, sec. 1148a), $10,001,000. $1,000 of the funds so transferred shall be used for capital of the Corporation, as provided in section 40(b)(1) of the Bankhead-Jones Farm Tenant Act, as amended, and $10,000,000 of such funds shall be covered into the farm tenant mortgage insurance fund, pursuant to section 11(a) of the Bankhead-Jones Farm Tenant Act, as amended.

Mr. [John W.] Flannagan [Jr., of Virginia]: Mr. Chairman, while I am not certain, I am afraid the points of order are well taken.

The Chairman:(13) The points of order are well taken. The Chair sustains the points of order.

§ 4.13 Language in a bill authorizing participation by the United States in the International Development Association (which prohibited further United States subscription to the fund "except that loans or other financing may be provided by [an] agency . . . which is authorized . . . to make loans or provide other financing to international organizations," which would have included funds theretofore appropriated) was held to be in violation of Rule XXI clause 4 (now clause 5), and ruled out on a point of order where it was not clear that the exception merely restated existing authority in law to make loans to this particular organization.

On June 28, 1960,(14) the Committee of the Whole was considering H.R. 11001, a bill providing for U.S. participation in the International Development Association. At one point, the Clerk read as follows, and proceedings ensued as indicated below:

> Sec. 5. Unless Congress by law authorizes such action, neither the President nor any person or agency shall, on behalf of the United States, (a) subscribe to additional funds under article III, section 1, of the articles; (b) accept any amendment under article IX of the articles; or (c) make a loan or provide other financing to the Association, except that loans or other financing may be provided to the Association by a U.S. agency created pursuant to an act of Congress which is authorized by law to make loans or provide other financing to international organizations.

Mr. [Frank T.] Bow [of Ohio]: Mr. Chairman, a point of order.

The Chairman:(15) The gentleman will state it.

Mr. Bow: Mr. Chairman, I make the point of order against the language on page 3, beginning at the end of line 4 down through line 8, "except that loans or other financing may be provided to the Association by a United States agency created pursuant to an act of Congress which is authorized by law to make loans or provide other financing to international organizations."

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13. Philip A. Traynor (Del.).

14. 106 Cong. Rec. 14789, 14790, 86th Cong. 2d Sess.

15. B. F. Sisk (Calif.).

I will say to the Chair that I have made inquiry of the committee here on the floor and the committee says that these are organizations already in existence, with the possibility of transfers being made under Public Law 480 or by other organizations now authorized to make loans to these various countries. I make the point of order that this is a transfer of appropriated funds and is an appropriation on a legislative bill. . . .

Mr. [Abraham J.] Multer [of New York]: . . . I suggest that the point of order should be overruled. I do not think I said anything to indicate that there was any attempt to transfer any appropriated funds or any authorized funds.

May I read from page 11 of the report which refers precisely to the language now under attack by the point of order?

> The excepting clause does not confer upon any U.S. agency any authority it would not otherwise have and is intended to make clear that the prohibitory language does not in any way narrow, or preclude the use of, authority which any agency of the U.S. Government, including the President, possesses under other legislation to make loans or provide other financing to international organizations, including the International Development Association.

I suggest the point of order is not well taken.

Mr. Bow: Mr. Chairman, may I reply to that and say that the one I am referring to is the exception to what the gentleman from New York has just stated.

Mr. Multer: I have referred only to the language which begins with the words against which the point of order is made. It is that exception to which the report from which I have read is directed.

The Chairman: The Chair would like to inquire of the gentleman from New York whether or not he interprets this to be that the U.S. agencies could use funds heretofore appropriated for the purposes of this section?

Mr. Multer: Only if so authorized by the enabling or enacting legislation and the appropriation making the funds available to such other agencies.

The Chairman: The Chair is ready to rule. Under the interpretation of the gentleman from New York, the point of order would lie; and therefore the Chair sustains the point of order.

Directing Treasury to Make Funds Available

§ 4.14 Language directing the Secretary of the Treasury to make a certain fund available for the payment of adjusted-service certificates was held to be an appropriation and not in order on a legislative bill.

On Jan. 9, 1936,[16] the Committee of the Whole was considering H.R. 9870, a bill dealing with payment of adjusted-service certificates (bonus bill). The Clerk read an amendment as follows and proceedings ensued as indicated below:

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[16] 80 Cong. Rec. 273, 274, 74th Cong. 2d Sess.

Amendment offered by Mr. Fish: Page 7, line 13, add section 6A, as follows:

"The Secretary of the Treasury is hereby directed to make the exchange stabilization fund of $2,000,000,000 that expires on January 30, 1936, available on that date for payment of the adjusted-service certificates."

MR. [JERE] COOPER of Tennessee: Mr. Chairman, I make the point of order against the amendment that it is not germane to this section or to any part of the bill.

THE CHAIRMAN:(17) The Chair will hear the gentleman from New York on the point of order.

MR. [HAMILTON] FISH [Jr., of New York]: Mr. Chairman, the bill reads, "To provide for the immediate payment of World War adjusted-service certificates", and my amendment offers a method for the payment of these certificates. This is one of the many means that may be proposed for the payment of these certificates, and I should think there would be the greatest amount of latitude by the Chair for any Member to offer a specific way of paying the certificates.

THE CHAIRMAN: The bill is merely an authorization for an appropriation. The Chair thinks that a reading of the amendment offered by the gentleman from New York clearly shows that the amendment is an appropriation, and not proper on this bill, and the Chair, therefore, sustains the point of order.

§ 4.15 Language in a bill reported by a legislative committee authorizing the Treasurer of the United States to honor requisitions of the Archivist in such manner and in accordance with such regulations as the Treasurer might prescribe was held an appropriation and not in order under Rule XXI clause 4 (now clause 5).

On July 13, 1939,(18) the Committee of the Whole was considering Senate Joint Resolution 118, a bill to provide for the establishment and maintenance of the Franklin D. Roosevelt Library. The following proceedings took place:

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the section on the ground that it contains an appropriation of public funds and that it is reported by a committee not having jurisdiction to bring into the House an appropriation bill.

I call the attention of the Chair to the following language on page 6, in line 7:

> The Treasurer of the United States is hereby authorized to honor the requisitions of the Archivist made in such manner and in accordance with such regulations as the Treasurer may from time to time prescribe.

Those words take money directly from the Treasury of the United States without any limitation and are in violation of the provisions of clause 4 of rule XXI of the House. . . .

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(17) Thomas L. Blanton (Tex.).

(18) 84 CONG. REC. 9060, 9061, 76th Cong. 1st Sess.

Now, this is a permanent appropriation which will go on forever of whatever amount the Archivist cares to draw for upon the Treasurer under such rules and regulations as the Treasurer may from time to time prescribe. I make the point of order against the section.

THE CHAIRMAN:(19) The Chair desires to direct a question to the gentleman from New York. In line 8, on page 6, is the gentleman of the opinion that the authorization there takes money from the United States Treasury or merely honors requisitions?

MR. TABER: It authorizes the Treasurer of the United States, without any further legislation, to take money right out of the United States Treasury. It is a permanent appropriation.

THE CHAIRMAN: Does the gentleman from Illinois wish to be heard on the point of order?

MR. [KENT E.] KELLER [of Illinois]: Yes, Mr. Chairman, it seems to me that the point of order is ill taken for this reason: This is not an appropriation. There is no appropriation provided in this at all. It is simply and solely for the purpose of accepting the requisitions of the proper authority in charge of all archives of all kinds and character, because this bill provides that the expense shall be appropriated for as a part of the Archivist's expenses to the Government as a whole.

MR. [JOHN J.] COCHRAN [of Missouri]: Mr. Chairman, I call attention to the fact that the language in the section provides for the creation of a trust fund to be deposited in the Treasury of the United States. It provides for the raising of a trust fund to be placed in the Treasury, and the language does not take appropriated money out of the Treasury. It is not out of Government funds, but out of the trust fund. It is not in itself a direct appropriation, but more of an authorization for those in charge to draw on the trust fund.

MR. TABER: Mr. Chairman, I call the attention of the Chair to the fact that there is no limitation on the funds that this should be taken out of. The way it reads it would be taken directly out of the Treasury and not out of any trust fund whatever. It does not say that it shall be taken out of a trust fund, nor is it implied in any way.

THE CHAIRMAN: Does the gentleman from New York limit his point of order to the sentence which he read?

MR. TABER: Mr. Chairman, I made the point of order against the section.

MR. KELLER: Have you read what is at the bottom of page 5 as to the method of depositing the money in the Treasury first?

MR. TABER: Yes; I have read that. There is nothing whatever that limits the amount that can be taken out to the amount that is put in, nor is there anything whatever that limits it to being taken out of that fund. It is direct authority to the Treasury to pay it.

MR. KELLER: Well, what is a requisition, then?

MR. TABER: A requisition is a draft upon the Treasurer. This constitutes a permanent appropriation.

MR. KELLER: Only where the money is already provided, not where it is not provided.

MR. TABER: No; there is no such limitation.

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19. John W. Boehne, Jr. (Ind.).

The Chairman: The Chair is ready to rule.

The Chair is of the opinion that the point of order made by the gentleman from New York against the section is well taken, and therefore sustains the point of order.

Mr. [Sam] Rayburn [of Texas]: Mr. Chairman, I offer an amendment. . . .

The Chairman: The gentleman from Texas is recognized for 5 minutes on his amendment.

Mr. Taber: Mr. Chairman, will the gentleman yield?

Mr. Rayburn: I yield.

Mr. Taber: Will the gentleman tell us briefly what his amendment does?

Mr. Rayburn: I may say to the gentleman from New York that I conceded that his point of order was good.

The amendment I offer leaves out the language objected to by the gentleman from New York in lines 7, 8, 9, and 10 on page 6, reading:

> The Treasurer of the United States is hereby authorized to honor the requisitions of the Archivist made in such manner and in accordance with such regulations as the Treasurer may from time to time prescribe.

This undoubtedly meets the objection raised by the gentleman from New York, and I contend that the amendment is in order.

The Chairman: The question is on the amendment offered by the gentleman from Texas.

The amendment was agreed to.

Allocation of Agency's Receipts

§ 4.16 Language in a legislative bill providing for the collection of certain fees and authorizing the use of the fees so collected for the purchase of certain installations was construed to be an appropriation and not in order under Rule XXI clause 4 (now clause 5).

On June 17, 1937,(20) the Committee of the Whole was considering H.R. 7472, the District of Columbia tax bill. At one point, the Clerk read as follows, and proceedings ensued as indicated below:

> The Commissioners of the District of Columbia are hereby authorized and empowered, in their discretion, to fix, prescribe, and collect fees for the parking of automobiles in or upon any street, avenue, road, highway, or other public space within the District of Columbia under their jurisdiction and control, and to make and enforce regulations to provide for the collection of such fees. Any person violating any such regulation shall be punished by a fine of not more than $100 or imprisonment not to exceed 10 days.
>
> The Commissioners of the District of Columbia are further authorized and empowered, in their discretion, to purchase, rent, and install such mechanical parking meters or devices as the Commissioners may deem necessary or advisable to insure the collection of such fees as may be prescribed for the parking of vehicles as aforesaid, and to pay the purchase price or rental and cost of installation of the same from the fees collected, the remainder of

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20. 81 Cong. Rec. 5915-18, 75th Cong. 1st Sess.

such fees to be paid to the collector of taxes for deposit in the Treasury of the United States to the credit of the revenues of said District. . . .

Mr. [Thomas] O'Malley [of Wisconsin]: I make the point of order that this section appropriates money out of fees to be collected, and therefore it is appropriation on a legislative bill. Line 24 provides that the purchase price of these machines shall be paid from the fees collected and the remainder of the fee shall be paid into the Treasury.

Mr. [Jack] Nichols [of Oklahoma]: Mr. Chairman, I make the point of order that the point of order comes too late. The section has been debated and amendments have been offered, and an amendment to strike out the section has been offered.

Mr. O'Malley: I was attempting to get recognition from the very beginning.

The Chairman:(21) The Chair is ready to rule. The last sentence of section 4, rule 21, provides as follows:

> A question of order on an appropriation in any such bill, joint resolution, or amendment thereto may be raised at any time.

It is the opinion of the Chair that the point of order is properly raised at this time(1) and that this is purely an appropriation, and, therefore, that language, as indicated in the gentleman's point of order, is ruled out of order.

The Chair sustains the point of order.

§ 4.17 A provision in a legislative bill authorizing the Director of the Census to use funds collected for issuance of birth certificates in administering the provisions of the bill until expended was held to be an appropriation not in order under Rule XXI clause 4 (now clause 5).

On July 15, 1942,(2) the Committee of the Whole was considering H.R. 7239, a bill authorizing the Director of the Census to issue birth records. The following proceedings took place:

Mr. [Francis H.] Case of South Dakota: Mr. Chairman, I make the point of order against the last sentence of the section just read that the language creates a revolving fund, constitutes an appropriation, and is reported in the bill by a committee which is without authority to report appropriations.

Mr. [John E.] Rankin of Mississippi rose.

The Chairman:(3) Does the gentleman from Mississippi desire to be heard on the point of order?

Mr. Rankin of Mississippi: I wish to say that this is not an appropriation. This money never goes into the Federal Treasury. Therefore it does not come under the rule on which the gentleman from South Dakota relies.

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21. James M. Mead (N.Y.).
1. Points of order against appropriations in legislative bills may be raised even after debate on the merits has taken place. See § 12.15, infra.
2. 88 Cong. Rec. 6209, 77th Cong. 2d Sess.
3. Wright Patman (Tex.).

Mr. Case of South Dakota: I pointed out that this creates a revolving fund.

The Chairman: Where does this money go if it does not go into the Treasury?

Mr. Rankin of Mississippi: The money is used by the Director of the Census to pay for the copying of these records.

The Chairman: What happens to the money?

Mr. Rankin of Mississippi: It is held in the Bureau of the Census just exactly as the Tennessee Valley Authority holds the money that is paid in there, and that is used in a revolving fund for the construction of dams, transmission lines, and so forth.

The Chairman: The question seems to be whether or not the language is equivalent to appropriating this money. The language is:

> All amounts collected in payment of such fees may be used by the Director in administering only the provisions of this act and shall be available until expended.

There are certain precedents which indicate that that language is equivalent to the phrase "is hereby appropriated," which would be in violation of the rule. The Chair cites Cannon's Precedents, volume VII, section 2152, page 896:

> Provision for establishment of a special fund, to be available with other funds appropriated for the purpose in payment of refunds, was ruled to be an appropriation and subject to a point of order under section 4 of rule XXI.
>
> On January 12, 1933, in the course of the consideration of the bill (H.R. 13991), the Farm Relief Bill, in the Committee of the Whole House on the state of the Union, this paragraph was read:
>
> "(b) The proceeds of all taxes collected under this section, less 2½ percent for the payment of administrative expenses under this act, shall be covered into the Treasury into a special fund to be available, together with any other funds hereafter appropriated for the purpose, for the payment of any refunds under this section."
>
> Mr. Carl R. Chindblom, of Illinois, raised the question of order that the paragraph was in violation of section 4 of rule XXI prohibiting committees other than the Committee on Appropriations from reporting appropriations.

The Chairman, Mr. Lindsay C. Warren, of North Carolina, sustained the point of order.

The Chair believes that the language objected to is in violation of section 4 of rule XXI, and sustains the point of order.

§ 4.18 Language in a bill reported from a legislative committee providing that all moneys received by the Maritime Commission under the act would be deposited in the construction fund of the commission, and all disbursements made by the commission in carrying out the act would be paid from such fund, was held to be an appropriation and not in order.

On Oct. 2, 1945,(4) the Committee of the Whole was considering

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4. 91 Cong. Rec. 9288, 9289, 79th Cong. 1st Sess.

H.R. 3603, a bill concerning the sale of surplus war vessels. At one point the Clerk read as follows and proceedings ensued as indicated below:

> Sec. 13. (a) The Commission is authorized to reconvert or restore for normal operation in commercial services, including removal of national defense or war service features, any vessel authorized to be sold or chartered under this act. The Commission is authorized to make such replacements, alterations, or modifications with respect to any vessel authorized to be sold or chartered under this act . . . as may be necessary or advisable to make such vessel suitable for commercial operation on trade routes or services or comparable as to commercial utility to other such vessels of the same general type. . . .
>
> (d) All moneys received by the Commission under this act shall be deposited in the construction fund of the Commission, and all disbursements made by the Commission in carrying out this act shall be paid from such fund. The provisions of sections 201(d), 204(b), 207, 209(a), and 905(c) of the Merchant Marine Act, 1936, as amended, shall apply to all activities and functions which the Commission is authorized to perform under this act. . . .

MR. [HERBERT C.] BONNER [of North Carolina]: Mr. Chairman, a point of order.

THE CHAIRMAN:(5) The gentleman will state it.

MR. BONNER: Mr. Chairman, I make the point of order against the language on page 21, line 6, first sentence, on the ground that it is an appropriation.

THE CHAIRMAN: Does the gentleman from Virginia care to be heard on the point of order?

MR. [SCHUYLER OTIS] BLAND [of Virginia]: Reluctantly, upon advice from the parliamentarian on the point of order that I would be foolish to argue otherwise, I concede the point of order.

THE CHAIRMAN: The point of order is conceded; the point of order is sustained.

Use of Proceeds From User Charges

§ 4.19 An amendment establishing a user charge and making the revenues collected therefrom available without further appropriation is not in order to a bill reported by a committee not having the jurisdiction to report appropriations.

On Mar. 29, 1972,(6) during consideration in the Committee of the Whole of the bill (H.R. 11896) to amend the Federal Water Pollution Control Act, the following proceedings took place:

MR. [JOHN] HEINZ [of Pennsylvania]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Heinz: On page 350 following line 6:

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5. William G. Stigler (Okla.).

6. 118 CONG. REC. 10749-51, 92d Cong. 2d Sess.

"Sec. 319(a) It is the purpose of this Section to supplement the enforcement procedures of this Act by providing for desirable economic incentives to water users to conserve water and to minimize pollution through reduction in the quantity of waste products dumped into these waterways. It is also the purpose of this Section to encourage the formation of regional waste treatment management organizations pursuant to section 208(a) of this Act.

"(b)(1) In furtherance of the purpose of this Section, the Administrator and the Secretary of the Treasury shall prescribe such regulations as are necessary to establish and put into effect two years after the enactment of this Act a schedule of national effluent charges for all those discharges including municipal sewage which detract from the quality of the water for municipal agricultural, industrial, recreational, sport, wildlife, and commercial fish uses. These discharges shall include, but not be limited to, biochemical oxygen demand (BOD), suspended solids, thermal discharges, and toxic wastes. The charges shall be set at a level which will provide for the attainment of the standards and goals of this Act. Such regulations shall also provide for making available as public information all amounts collected pursuant to such charges.

"(2) Any person who willfully fails to pay any charge as required by regulations established pursuant to this Section or who willfully fails to make any return, keep any records, supply any information, or to do any other act required by such regulations shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than one year or both, together with costs of prosecution. . . .

"(c) Revenues collected by the Secretary of the Treasury pursuant to such charges shall be deposited in a trust fund (hereinafter referred to as the 'fund') in the Treasury to be available without further appropriation to the Administrator for use as prescribed in subsection (d).

"(d) Money from the fund shall be available for distribution by the Administrator in each year for the purpose of funding Section 106 of this Act (to assist water pollution control programs of States and interstate agencies) . . . ."

The Chairman:[7] The Chair will hear the gentleman from Ohio.

Mr. [William N.] Harsha [of Ohio]: Mr. Chairman, my point of order is as follows: . . . [T]his amendment is not within the jurisdiction of the Committee on Public Works. It proposes a tax on effluents, and raises revenues, and therefore violates rule XI, which places jurisdiction of revenue raising in the Committee on Ways and Means.

Section 319(c), Mr. Chairman, categorically refers to revenues collected by the Secretary of the Treasury pursuant to such charges.

. . . [T]he amendment violates rule XXI, clause 4 prohibiting appropriations in legislative bills. Section 319(c) and (d) of the amendment directs the action to be taken with the revenues raised in accordance with the amendment. In addition to the clear language of the amendment, the stated purpose of the amendment in the proponent's March 22, 1972, letter demonstrates the intent that these funds be used for a specific purpose in violation of rule XXI, clause 4.

Therefore, Mr. Chairman, I insist upon my point of order. . . .

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7. Neal Smith (Iowa).

Mr. Heinz: Mr. Chairman, I would argue, in response to the statement of the distinguished gentleman from Ohio (Mr. Harsha) in urging his point of order, that effluent charges are basically user charges, and user charges are fundamental to the bill. The bill would not work without them; they are the primary means of financing the operation and construction of the water treatment works herein.

And I would add further that this in itself is an important consideration in ruling on this.

Also I would hasten to add that clearly under sections 204(b)(2) and 204(b)(3) that in fact the purpose of this bill is to raise revenues for the purposes of the bill, and without this we could not possibly construct any water treatment facilities.

Finally—and to be brief—there are two historical precedents that I believe are important that establish the principle that user charges are germane to the legislation.

Volume IV, section 4119 of Hinds' Precedents of the House of Representatives—no relation, I would add—state that on February 23, 1905, the River and Harbor Appropriations Bill was under consideration, and included in such bill was a section permitting the collection of tolls on freight and passengers. A point of order was made to that. The point of order was not sustained.

Similarly, at a later date, in Volume VII, section 1929 of the same precedents, a bill that included a provision calling for fines and penalties for offenses on lands of the public domain was reported from the Committee on Public Lands, now called the Department of the Interior, and it was determined that those charges might properly be considered by the Committee of the House as a Whole.

Mr. Chairman, I respectfully request that the Chair consider these precedents in ruling on the point of order raised by the gentleman from Ohio. . . .

The Chairman: . . . The Chair has examined the amendment.

The gentleman from Pennsylvania states that the bill contains similar provisions. However, the rule under which we are operating specifically waives all points of order against sections 2, 8, and 12 of the committee amendment, but it does not waive such points of order against an amendment to the committee amendment.

So far as nongermaneness is concerned, the Chair finds in clause 3(c) of the amendment submitted a provision for collecting revenues or taxes. Also in section 3(d) it provides for money collected from the fund shall be available for distribution—in other words, an appropriation.

So the Chair finds it is not germane for the reason that it provides for raising revenue, or a tax, and appropriates money. Therefore, the amendment is in violation of clause 7, rule XVI and also it is in violation of clause 4, rule XXI, prohibiting appropriations on legislative bills.

The Chair sustains the point of order.

Parliamentarian's Note: Points of order had been waived against appropriations contained in the committee amendment in the nature of a substitute, but not against amendments offered from the floor containing such provision. Hence, the amendment was subject to a point of order under Rule XXI clause 4 [clause 5 of Rule XXI in the 1981 *House Rules and Manual*].

Allocation of Proceeds of Sale

§ 4.20 In a bill providing, in part, authority to construct certain facilities at military reservations, a provision permitting immediate use of funds derived from the sale of the San Jacinto Depot for purchase of a site and construction of a depot at Point-Aux-Pins, Alabama, was ruled out as an appropriation reported from a legislative committee in violation of Rule XXI clause 4 (now clause 5).

On July 9, 1958,(8) the Committee of the Whole was considering H.R. 13015. At one point the Clerk read as follows, and proceedings ensued as indicated below:

> Sec. 110. The Secretary of the Army is authorized and directed to enter into a contract or contracts for the sale of the San Jacinto Ordnance Depot, Texas. . . . The Secretary of the Army is directed to act as follows:
>
> (1) The depot shall be moved to, and integrated with, the ammunition outloading terminal previously authorized for construction at Point-Aux-Pins, Ala., and, notwithstanding any other provisions of this or any other act, the authority contained in the act of July 27, 1954 (68 Stat. 536), for the acquisition of land and initiation of construction for the Point-Aux-Pins facility shall continue in effect until specifically superseded, modified, or repealed.
>
> (2) The sale of the San Jacinto Depot property shall be offered by the Chief of Engineers, United States Army, on behalf of and under the supervision of the Secretary of the Army within 18 months from the date of this act. No part of the land herein shall be sold, transferred, or occupied, by virtue of this transaction, by any Government agency or department.
>
> (3) A contract or contracts for the sale of the San Jacinto Depot shall be consummated as expeditiously as possible thereafter. . . .
>
> (4) All proceeds from the sale shall be available to administer the provisions of this section and to pay any and all expenses, including land acquisition, in connection with the relocation, exchange, or sale of the San Jacinto Depot or the establishment of a fully integrated depot at Point-Aux-Pins, Ala., or all proceeds deposited into the Treasury of the United States for obligation by the Army. . . .

MR. [HARRY R.] SHEPPARD [of California]: Mr. Chairman, a point of order.

THE CHAIRMAN:(9) The gentleman will state it.

MR. SHEPPARD: Mr.Chairman, I make a point of order against paragraph 4 of section 110 which appears on page 18 of the bill. This paragraph is on appropriation in a bill from a committee not having jurisdiction to report appropria-

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8. 104 CONG. REC. 13277, 13284, 13285, 85th Cong. 2d Sess.

9. James J. Delaney (N.Y.).

tions, and is in violation of rule 21, paragraph 4.

Specifically, this provides that funds from the sale of the San Jacinto Ammunition Depot shall be available to the Secretary of the Army to pay any and all expenses, including land acquisition, in connection with the relocation, change, or sale of the San Jacinto Depot or for the establishment of a fully integrated depot at a specified location in Alabama.

The Chairman: Does the gentleman from Georgia desire to be heard on the point of order?

Mr. [Carl] Vinson [of Georgia]: I do not desire to be heard on the point of order, Mr. Chairman. I concede the point of order. Therefore, paragraph 4, if the Chair sustains the point of order, will be eliminated.

The Chairman: The gentleman from Georgia concedes the point of order. The Chair sustains the point of order.

Allocating Money Repaid From Loans

§ 4.21 A provision in a bill reported by a legislative committee making available for administrative purposes money repaid from advances and loans was held to be an appropriation and not in order.

On Apr. 8, 1936,(10) the Committee of the Whole was considering H.R. 12037, the tobacco compact bill. At one point the Clerk read a provision of the bill and proceedings ensued as indicated below:

> Sec. 7. (b) Any advances or loans which are repaid to the Secretary by any commission pursuant to section 3 of this act shall be held in a special fund in the Treasury of the United States and shall be available until expended for the purpose of administering this act or until such time as the Secretary shall determine that all or any part of such funds will not be needed for such purpose, whereupon all or any part of such funds shall, upon approval by the Secretary, revert to the general fund of the Treasury of the United States.

Mr. [Carl E.] Mapes [of Michigan]: Mr. Chairman, a point of order. I desire to make a point of order against that paragraph.

Mr. [Marvin] Jones [of Texas]: We intend to offer an amendment striking out the appropriation.

Mr. Mapes: Mr. Chairman, I make a point of order against the paragraph. I do not care to argue it. It is conceded by the chairman of the committee, I think.

Mr. Jones: It is subject to a point of order.

The Chairman:(11) The Chair sustains the point of order.

Use of Excess Foreign Currency

§ 4.22 Language in a bill authorizing funds for the Foreign Assistance Act and making excess

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(10) 80 Cong. Rec. 5207, 74th Cong. 2d Sess.

(11) John R. Mitchell (Tenn.).

foreign currencies available to stimulate private enterprise abroad was conceded to be an appropriation and in violation of Rule XXI clause 4 (now clause 5).

On Aug. 24, 1967,[12] the Committee of the Whole was considering H.R. 12048, the Foreign Assistance Act for 1967. A provision was read, and a point of order was raised as indicated below:

> On page 35, line 1: . . .
>
> "Sec. 301. Chapter 1 of part III of the Foreign Assistance Act of 1961, as amended, which relates to general provisions, is amended as follows: . . .
>
> "(d) Section 612, which relates to the use of foreign currencies, is amended by adding at end thereof the following new subsection:
>
> " '(d) Notwithstanding section 1415 of the Supplemental Appropriation Act, 1953, excess foreign currencies, as defined in subsection (b) may be made available, in addition to funds otherwise available, to encourage the establishment, improvement, or expansion of private enterprises in friendly less developed countries. . . . The President may make loans or guaranties with such currencies on such terms and conditions as he may deem appropriate in the circumstances. To the maximum extent practicable in making such loans or guaranties, the President shall utilize the services of private financing institutions, including intermediate credit institutions which finance private business activity even though there may be a governmental interest in such institutions. . . .' "
>
> MR. [THOMAS E.] MORGAN [of Pennsylvania]: . . . Mr. Chairman, I ask unanimous consent that the portion of the bill starting on page 35, line 1, to the bottom of page 37, be considered as read and printed in the Record, and open to amendment at any point.
>
> THE CHAIRMAN:[13] Is there objection to the request of the gentleman from Pennsylvania? The Chair hears none, and it is so ordered.
>
> MR. [JOHN J.] ROONEY of New York: Mr. Chairman, a point of order.
>
> THE CHAIRMAN: The gentleman will state his point of order.
>
> MR. ROONEY of New York: Mr. Chairman, I make a point of order against the language on page 36, beginning on line 3 and running through line 23, on the grounds that it makes an appropriation and is therefore in violation of paragraph 4 of rule XXI. . . .
>
> MR. MORGAN: Mr. Chairman, we concede the point of order.
>
> THE CHAIRMAN: The point of order is conceded. The Chair sustains the point of order.

Additional Use of Existing Foreign Credits

§ 4.23 To a law authorizing, for certain purposes, use of foreign credits already generated from sale of agricultural products abroad, a section of a bill reported by the Committee on Agriculture to authorize use of

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[12] 113 CONG. REC. 23974, 23975, 90th Cong. 1st Sess.

[13] Charles M. Price (Ill.).

such funds for an additional purpose, was ruled out as an appropriation in violation of Rule XXI clause 4 (now clause 5).

On July 18, 1956,(14) during consideration in the Committee of the Whole of H.R. 11708, a bill to amend the Agricultural Trade Development and Assistance Act of 1954 the following proceedings occurred:

> Sec. 2. Section 104 (h) of the act is amended by inserting the following language immediately before the period at the end of the section: "and for the providing of assistance to activities and projects authorized by section 203 of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1448)".
>
> Mr. [Thomas B.] Curtis of Missouri: Mr. Chairman, I make the point of order against all of section 2 that it is an appropriation on a bill by a committee not authorized to deal with appropriations.
>
> In support of that statement, may I say that this is exceedingly technical and very difficult to follow. Nonetheless, by referring to the basic act, Public Law 480, with which this deals, we find that it refers to foreign currencies and I quote, "which accrue to the United States under this act." Then refer to the specific section which states, "to use the foreign currencies which accrue." Then go right on down to section (h), to which this is an amendment. It states, "for the financing of." I submit this is obviously an appropriation. I might say that if this were only an authorization I would have no objection to it at all, but I do not believe this is a proper place to appropriate. . . .
>
> Mr. [John] Taber [of New York]: Mr. Chairman, This currency unquestionably belonging to the Government of the United States, which it receives under the provisions of section 2 of Public Law 480, 83d Congress, and being turned over by the terms of section 104 for specific purposes is for other things or for anything that they desire to purchase.
>
> Paragraph (a) provides for providing new markets for United States agricultural commodities.
>
> Paragraph (b) to purchase strategic and critical materials. . . .
>
> Paragraph (e) for promoting balanced economic trade among nations.
>
> Paragraph (f) to pay United States obligations abroad.
>
> Paragraph (g) for loans to promote multilateral trade.
>
> Mr. Chairman, the adding of one more item for which the funds can be used constitutes an additional appropriation of these currencies which belong to the Government of the United States as a result of the operations under paragraph (a) section 2. . . .
>
> Mr. [Harold D.] Cooley [of North Carolina]: Mr. Chairman, all of the money that goes into the financing of these programs have already been appropriated and turned over to the President to be used by the President. In the original act, he is given the right to barter. He is given the right to

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14. 102 Cong. Rec. 13393, 84th Cong. 2d Sess.

sell for local currencies. He is given the right to give away. This only provides that he can barter just as has been pointed out heretofore in the debate; one of the rights he now has is to barter. We say he cannot barter with the U.S.S.R. or North Korea or China, but that he can barter with all other countries in the world. So it is not an appropriation on legislation at all. The moneys have already been appropriated and now are in the hands of the President. Mr. Chairman, without unduly delaying the matter, may I point out the language. It says:

> The President may use or enter into agreements with friendly nations or organizations of nations and use the foreign currencies which accrue under this title for one or more of the following purposes.

And following that is barter, which is one of those purposes.

The Chairman:[15] The Chair would like the gentleman from North Carolina to comment on this question. Do we not acquire foreign currencies which belong to this Government, which we receive for selling commodities?

Mr. Cooley: Certainly, we are acquiring foreign currencies, and the act provides for the use of those currencies by the President of the United States. One of the uses that he can use them for is (c) to produce military equipment, materials and so forth and services for the common defense.

The Chairman: The point at issue is whether the funds can be used without a further appropriation by the Congress.

Mr. Cooley: Yes, Mr. Chairman, that is the question. But the point is, as I have pointed out, that the funds have already been appropriated and have already been used largely, and this act itself authorizes the increase of the authorization, but it does not authorize the President to use the foreign currencies or commodities for any purpose foreign to or in addition to the enumerated uses set forth in the act, one of which is to barter.

The Chairman: The Chair would like to inquire of the gentleman from North Carolina [Mr. Cooley] if all the currencies previously acquired have been used by this Government.

Mr. Cooley: They have been obligated. To the exact extent, I am not sure, but practically all of them have been obligated but not actually used. They are covered by gentlemen's agreements, some of which have not been fully consummated.

I would like to emphasize one point, if I may. The point of order is to the effect that we are adding to the enumeration of uses that the President could employ. We are not doing anything of the kind. Under the act we have a right to barter. That is what this provision authorizes him to do. We are only saying that he can barter with this money. The fact of the business is it might be considered a limitation because we limit the use of the money, in that he cannot use it in North Korea or China.

Mr. Taber. If the Chair will permit, this is not barter at all. It is the use of funds. The appropriations having already been established in section 104, that of course can be continued. But to add new money and appropriate money for other purposes that were not allowed in the first bill is beyond the rule, and it constitutes a new appropriation. Therefore, it is subject to a point of order because it comes from a committee other than the Committee on Appropriations.

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[15] Prince H. Preston, Jr. (Ga.).

Mr. Curtis of Missouri: Mr. Chairman, might I add also that in the committee hearings witnesses testifying on the part of the executive department used as one of their arguments that this would give them additional funds.

Mr. Cooley: Mr. Chairman, may I add one comment? The gentleman from New York [Mr. Taber] points out that we are adding something to the authority of the President by this amendment in the bill. Actually, I think some of these funds are now used in connection with the school lunch program in Japan. They are being used in other countries in connection with the education of the children of those countries. Certainly we are not adding to the authority of the President. It is rather strange that an objection to giving authority to the President should come from that side of the aisle. I do not think this is subject to a point of order.

The Chairman: The Chair is ready to rule. The gentleman from Missouri [Mr. Curtis] has made a point of order against section 2 of the bill, that this constitutes an appropriation. The bill under consideration by the Committee seeks to amend existing law known as Public Law 480 of the 83d Congress. In the pending bill it is clearly evident that a new activity is being created by the legislation. New authority is being granted in the handling of the foreign credit derived from the sale of commodities. Therefore, in the opinion of the Chair, it constitutes an appropriation. The Chair therefore feels constrained to sustain the point of order.

Parliamentarian's Note: See § 4.44, infra, where language authorizing use only of future foreign currency proceeds was held not to be an appropriation.

Amendment to Legislative Bills—Generally

§ 4.24 An amendment appropriating money is not in order on a bill reported by a committee not having jurisdiction over appropriations.

On May 22, 1936,[16] the Committee of the Whole was considering S. 3531, a bill to amend an act relating to Mississippi River flood control. The following proceedings took place:

Mr. [Arthur P.] Lamneck [of Ohio]: Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

> Page 2, line 7, after the word "Engineers", add the following: "*Provided,* That the Chief of Engineers, under the supervision of the Secretary of War, shall at the expense of the United States Government, construct a system of levees and reservoirs to adequately control the floodwaters of the Scioto, Olentangy, and Sandusky River Valleys in Ohio: *And provided further,* There is hereby appropriated the sum of $40,000,000 for the carrying out of the above project."

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[16] 80 Cong. Rec. 7777, 74th Cong. 2d Sess.

Mr. [Riley J.] Wilson of Louisiana: Mr. Chairman, I make the point of order against the amendment that it makes a direct appropriation. . . .

The Chairman:(17) The amendment proposes to appropriate $40,000,000. Rule XXI provides that no bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations nor shall an amendment proposing an appropriation be in order during consideration of a bill or joint resolution reported by a committee not having that jurisdiction.

Inasmuch as the amendment appropriates money in violation of the rule, the Chair sustains the point of order.

Emergency Fund

§ 4.25 An amendment to a legislative bill proposing to make available not to exceed $120,000 of appropriations for rivers and harbors work as an emergency fund to be expended for repairing damage to and checking erosion on the Bayocean Peninsula in Oregon was held in violation of Rule XXI clause 4 (now clause 5).

On May 17, 1939,(18) the Committee of the Whole was considering H.R. 6264, a bill dealing with public works on rivers and harbors. At one point the Clerk read as follows, and proceedings ensued as indicated below:

Amendment offered by Mr. Mott: Page 9, after line 6, insert a new paragraph, as follows:

"The sum of not to exceed $120,000 of appropriations available for river and harbor work shall be immediately available as an emergency fund to be expended under the direction of the Secretary of War and the supervision of the Chief of Engineers for repairing damage to and checking erosion on the Bayocean Peninsula in Oregon, caused by storm in January 1939, in order to provide adequate protection to property on such peninsula and in Tillamook, Oreg."

Mr. [John] Taber [of New York]: Mr. Chairman, I make the point of order against the amendment that it is an appropriation on a legislative bill.

The Chairman:(19) Does the gentleman from Oregon desire to be heard on the point of order made by the gentleman from New York?

Mr. [James W.] Mott [of Oregon]: Mr. Chairman, I think the gentleman from New York did not hear the amendment correctly, because it is not an appropriation but an authorization for the engineers to use river and harbor money.

Mr. Chairman, there is no language in this amendment which is appropriating language. The amendment authorizes the use by the Army engineers of money available for river and harbor work to be used in emergency work on this project.

The Chairman: Does the gentleman from New York insist on his point of order?

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17. John W. Flannagan, Jr. (Va.).
18. 84 Cong. Rec. 5679, 76th Cong. 1st Sess.
19. Orville Zimmerman (Mo.).

Mr. Taber: Mr. Chairman, I think I shall have to insist on the point of order. If we are to have an appropriation, it should come in an appropriation bill after a hearing, and then it would go through quicker, if the need were shown, than this bill.

The Chairman: The Chair is ready to rule.

The Chair is of the opinion that the amendment of the gentleman from Oregon contains language which proposes to divert an appropriation heretofore made to a new purpose and is therefore in violation of clause 4 of rule XXI of the House of Representatives. The Chair sustains the point of order.

Unemployment Benefits

§ 4.26 To a bill amending the Social Security Act to provide a national program for war mobilization and reconversion, an amendment directing payments to states on account of unemployment benefits was held to be an appropriation in violation of Rule XXI clause 4 (now clause 5), and not in order.

On Aug. 31, 1944, the Committee of the Whole was considering S. 2051, the war mobilization and reconversion bill of 1944. The following proceedings took place:(20)

Mr. [John] Taber [of New York]: Mr. Chairman, I make the point of order against the [committee] amendment that it is an appropriation of funds in violation of clause 4 of rule XXI of the House. I call the attention of the Chair particularly to this language. I refer to the page and line of the Senate bill rather than the amendment, because I have that in front of me and I assume the Chair can refer to it readily. It begins on page 21, line 6:

> (c) Each State shall be entitled to receive from the Federal unemployment account for each quarter, beginning with the first quarter commencing after enactment of this act, an amount equal to the total of all payments of unemployment compensation made by such State during such quarter, pursuant to an agreement under this section.
>
> (d) In the event that any State does not agree to make such payments to such persons, the Civil Service Commission is hereby authorized and directed to make such payments. . . .
>
> (f) In case of an agreement under this section that a State agency will make payments as agent of the United States, there shall be paid in advance to the State such sum as the Board estimates the State will be entitled to receive for each quarter under such section. All money paid to a State under this subsection shall be used solely for the payment of unemployment compensation. Any money so paid to a State which is not used for the purpose for which it was paid shall, upon termination of the agreement, be returned to the Treasury. . . .

The Chairman:(1) The Chair will state to the gentleman from Rhode Island that the rule under which we are considering this measure, waives points of order against the committee substitute, but not against the amendments which would be offered to that substitute. The rule cited by the gentleman from New York is very clear and specific:

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(20) 90 Cong. Rec. 7464, 78th Cong. 2d Sess.

1. Fritz G. Lanham (Tex.).

> No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations, nor shall an amendment proposing an appropriation be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A question of order on an appropriation in any such bills, joint resolution, or amendment thereto may be raised at any time.

In the opinion of the Chair, the language cited by the Chair and other language cited by the gentleman from New York, clearly provides for an appropriation.

Mr. [Aime J.] Forand [of Rhode Island]: Mr. Chairman, if the committee amendment, which is an entire new bill, had not been brought to the floor of the House as it is now, we would be considering the George [Senate] bill, and that would be in the George bill. Would not the rule given to us by the Committee on Rules clear that? We understood this was a broad rule.

The Chairman: Yes; the rule would clear the Senate bill, but we are not considering the Senate bill; we are considering the committee substitute amendment to the Senate bill. This is offered as an amendment to the committee amendment. In the opinion of the Chair the point of order is well taken.

The Chair sustains the point of order on the authorities cited.

Guaranteeing Agencies' Use of Previously Appropriated Funds

§ 4.27 Language in an amendment to a bill reported by the Committee on Banking and Currency providing that certain guaranteeing agencies were thereby authorized to use for the purposes of the section any funds "heretofore" appropriated was held to be an appropriation in violation of Rule XXI clause 4 (now clause 5), and not in order.

On Aug. 2, 1950,(2) the Committee of the Whole was considering H.R. 9176, the Defense Production Act of 1950. At one point, a Member raised a point of order against an amendent. The proceedings were as follows:

> Mr. [John] Taber [of New York]: Mr. Chairman, I make a point of order against the amendment.
>
> The Chairman:(3) The gentleman will state it.
>
> Mr. Taber: I make the point of order that the amendment violates the provisions of section 4 of rule 21. . . .
>
> The Chairman: Will the gentleman from New York point out the specific language in the bill to which he objects?
>
> Mr. Taber: I call the Chair's attention to page 7, lines 18 to 23:

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2. 96 Cong. Rec. 11599, 11600, 81st Cong. 2d Sess.
3. Howard W. Smith (Va.).

> (d) Each guaranteeing agency is hereby authorized to use for the purposes of this section any funds which have heretofore been appropriated or allocated or which hereafter may be appropriated or allocated to it, or which are or may become available to it, for such purposes or for the purpose of meeting the necessities of the national defense. . . .

The Chairman: The Chair is ready to rule. . . .

. . . . [T]he Chair is of the opinion that the language there does constitute an appropriation in violation of the rule cited by the gentleman from New York, and accordingly sustains the point of order against the amendment on account of that objectionable language.

Use of Foreign Interest Payments

§ 4.28 To a bill authorizing the furnishing of emergency food relief assistance to India on specified credit terms, an amendment providing that interest on the principal of any debt incurred pursuant to such relief program be deposited in a special account in the Treasury, to be immediately available for certain types of expenditures by the Department of State was held to be an appropriation in violation of Rule XXI clause 4 (now clause 5).

On May 24, 1951,[4] the Committee of the Whole was considering H.R. 3791, a bill to furnish emergency food relief assistance to India. An amendment was offered and a point of order raised as indicated below:

Mr. [William G.] Bray [of Indiana]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Bray: On page 3, at line 20, add a new section reading as follows:
>
> "Sec. 4 (a) any sums payable by the Government of India, under the interest terms agreed to between the Government of the United States and the Government of India, on or before January 1, 1957 . . . as interest on the principal of any debt incurred under this act shall, when paid, be placed in a special deposit account in the Treasury of the United States, notwithstanding any other provisions of law, to remain available until expended. This account shall be available to the Department of State for the following uses:
>
> "(1) Allocation, for designated educational, agricultural, experimental, scientific, medical, or philanthropic activities, to American institutions engaged in such activities in India. . . ."

Mr. [John M.] Vorys [of Ohio]: Mr. Chairman, because of my admiration for the gentleman I dislike to press the point of order, but I think the rules of the House keep our thinking straight. I therefore make the point of order. I submit the gentleman's amendment goes far beyond the scope of the legislation. It introduces a great deal of new matter and provides for an appropriation in a legislative act, and is therefore not in order. . . .

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[4] 97 Cong. Rec. 5837, 5838, 82d Cong. 1st Sess.

THE CHAIRMAN:(5) The Chair is ready to rule.

The gentleman from Indiana offers an amendment, which the Clerk has reported, providing certain conditions relating to the assistance proposed to be granted under the pending bill; in addition it proposes the creation of a fund and makes available those funds for certain specific purposes.

The gentleman from Ohio makes a point of order against the amendment on two grounds: One, that it is not germane; two, that it seeks to make an appropriation.

The Chair would call attention to page 88 of Cannon's Precedents where the following statement is made:

> The mere fact that an amendment proposes to attain the same end sought to be attained by the bill to which offered—

Which is the contention of the gentleman from Indiana—

> does not render it germane.
>
> Though the proposed amendment seeks accomplishment of ends undoubtedly worthy and somewhat related to the aims of the pending bill, it does provide conditions separate and apart from the pending bill.

Clause 4 of rule 21 provides:

> No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations, nor shall an amendment proposing an amendment be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction.

The proposed amendment would in the opinion of the Chair, violate this rule.

The Chair, therefore, sustains the point of order made by the gentleman from Ohio in both respects.

Appropriations to Another Government Agency

§ 4.29 To a bill to amend the Agriculture Act of 1949 to permit the importation of Mexican agricultural workers, an amendment relating to the detention of Mexican aliens, generally, in the United States and providing that appropriations made heretofore shall be available for expenditures to carry out the purposes of the provision was held to be an appropriation in violation of Rule XXI clause 4 (subsequently clause 5).

On June 27, 1951,(6) during consideration in the Committee of the Whole of H.R. 3283, a bill to amend the Agricultural Act of 1949, the following proceedings occurred:

MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Celler: Add a new section:
>
> "Sec. 512. Notwithstanding any other provision of law to the contrary and without regard to section 3709 of the revised statutes, the At-

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5. Albert A. Gore (Tenn.).

6. 97 CONG. REC. 7274, 7275, 82d Cong. 1st Sess.

> torney General is authorized to purchase, construct, lease, equip, operate, and maintain on either Government-leased or Government-owned land such detention facilities as may be necessary for the apprehension and removal to Mexico of Mexican aliens illegally in the United States. Appropriations made to the Immigration and Naturalization Service shall be available for expenditures to carry out the purposes of this act."

MR. [HAROLD D.] COOLEY [of North Carolina]: Mr. Chairman, I reserve a point of order against the amendment offered by the gentleman from New York [Mr. Celler]. . . .

MR. COOLEY: Mr. Chairman, I renew my point of order.

THE CHAIRMAN:(7) Will the gentleman please state the grounds of his point of order?

MR. COOLEY: First, that it broadens the scope of the legislation under consideration. It is not germane, and it actually constitutes an appropriation. . . .

THE CHAIRMAN: The Chair is ready to rule.

The gentleman from New York offers an amendment to the bill before the committee and the gentleman from North Carolina makes the point of order against the amendment on the ground that it is not germane and that it contains an appropriation.

The Chair has had an opportunity to study the amendment offered by the gentleman from New York. As the Chair understands the bill before the committee, H.R. 3283, it applies to certain Mexican aliens as a class and as described in the bill. The amendment offered by the gentleman from New York broadens the group to include Mexican aliens illegally in the United States, beyond the class described in the bill. The amendment also proposes to appropriate funds for a certain purpose described in the amendment.

For these two reasons, the Chair is constrained to sustain the point of order.

Funds Previously Appropriated for Mutual Security Agency

§ 4.30 To a bill reported by the Committee on Agriculture, an amendment authorizing the use of funds "heretofore appropriated for the use of the Mutual Security Agency" was ruled out as an appropriation in violation of Rule XXI clause 4 (now clause 5).

On July 29, 1953,(8) the Committee of the Whole was considering H.R. 6016, a bill concerned with emergency famine relief. An amendment was offered and the following proceedings occurred:

MR. [PAUL C.] JONES of Missouri: Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

> Amendment offered by Mr. Jones of Missouri: Page 2, lines 10 and 11, strike out the words "(including the Corporation's investment in the commodities)" and insert in lieu thereof "of funds heretofore appropriated for

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7. Albert A. Gore (Tenn.).

8. 99 CONG. REC. 10392, 83d Cong. 1st Sess.

the use of the Mutual Security Agency."

Mr. [Clifford R.] Hope [of Kansas]: Mr. Chairman, a point of order.

The Chairman:(9) The gentleman will state it.

Mr. Hope: I make the point of order against the amendment that it is not germane and that it constitutes an appropriation. . . .

The Chairman: The Chair is ready to rule. This amendment as drafted, would divert previously appropriated funds to a new purpose. Therefore the Chair sustains the point of order.

Foreign Credits for New Purpose

§ 4.31 To a bill providing for extension of a law authorizing, for certain purposes, use of foreign credits generated from the sale of surplus agricultural products abroad, an amendment proposing use of a limited percentage of the generated funds for an additional purpose, was ruled out as an appropriation in violation of Rule XXI clause 4 (now clause 5).

On June 4, 1957,(10) the Committee of the Whole was considering H.R. 6974, a bill to extend the Agricultural Trade Development and Assistance Act of 1954, among other things. At one point a Member offered the following amendment, and proceedings ensued as indicated below:

The Clerk read as follows:

> Amendment offered by Mr. Cooley: On page 2, following line 3, add the following new paragraph No. 4:
>
> "Section 104(e) of such act is amended by striking out the semicolon at the end thereof and adding a comma and the following: 'for which purposes not more than 25 percent of the currencies received pursuant to each such agreement shall be available through and under the procedures established by the Export-Import Bank for loans mutually agreeable to said bank and the country with which the agreement is made to United States business firms and branches, subsidiaries, or affiliates of such firms for business development and trade expansion in such countries for the establishment of facilities for aiding in the utilization, distribution, or otherwise increasing the consumption of, and markets for, United States agricultural products. Foreign currencies may be accepted in repayment of such loans.' "

Mr. [John] Taber [of New York]: Mr. Chairman, a point of order.

The Chairman:(11) The gentleman will state his point of order.

Mr. Taber: Mr. Chairman, this is an appropriation on a bill coming from a committee which has no authority to report appropriations to this body. . . .

Mr. [Harold D.] Cooley [of North Carolina]: As I understand it, the President now has the authority in existing law to make these agreements and to use the money as provided by law. This is in effect saying he shall not use more than 25 percent of it for these purposes.

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9. Glenn R. Davis (Wisc.).

10. 103 Cong. Rec. 8298, 85th Cong. 1st Sess.

11. Brooks Hays (Ark.).

THE CHAIRMAN: The Chair is ready to rule. The Parliamentarian has directed the Chair's attention to the fact that on July 18, 1956, in the consideration of a similar measure, the gentleman from Georgia [Mr. Preston], being Chairman of the Committee of the Whole, ruled on a point of order similar to that made by the gentleman from New York.

This is the ruling, and the reasons for it in the language of Chairman Preston, which the Chair adopts:

> The gentleman has made a point of order against section 2 of the bill. The bill under consideration by the Committee seeks to amend existing law known as Public Law 480 of the 83d Congress. In the pending bill it is clearly evident that a new activity is being created by the legislation. New authority is being granted in the handling of the foreign credit derived from the sale of commodities. Therefore, in the opinion of the Chair, it constitutes an appropriation. The Chair, therefore, feels constrained to sustain the point of order.

The Chair sustains the point of order made by the gentleman from New York [Mr. Taber].

Use of Tax Receipts for School Construction

§ 4.32 An amendment (to a bill reported from the Committee on Education and Labor) providing that the District Director of Internal Revenue shall, under a formula, pay an allotment to each state out of tax funds for school construction has been ruled out as an appropriation in violation of Rule XXI clause 4 (subsequently clause 5).

On July 25, 1957,[12] the Committee of the Whole was considering H.R. 1, a bill to authorize federal assistance to the states and local communities in financing an expanded program of school construction so as to eliminate the national shortage of classrooms. The following proceedings took place:

MR. [EDWIN H.] MAY [Jr., of Connecticut]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. May: Page 31, beginning with line 19, strike out everything down through line 11, page 46, and insert the following:
>
> "TITLE I—PAYMENTS TO STATE EDUCATIONAL AGENCIES
>
> "*Authorization of appropriations*
>
> "Sec. 101. There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1957, and the four succeeding fiscal years, such amounts, not to exceed $300 million in any fiscal year, as may be necessary for making payments to State educational agencies as provided in section 104.
>
> "*Allotments to States*
>
> "Sec. 102(a)(1) The sums appropriated for any fiscal year pursuant to section 101 shall be allotted among the States on the basis of the income per child of school age, the school-

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[12] 103 CONG. REC. 12728, 12729, 12733, 85th Cong. 1st Sess.

age population, and effort for school purposes, of the respective States. Subject to the provisions of section 103, such allotments shall be made as follows: The Commissioner shall allot to each State an amount which bears the same ratio to the sums appropriated pursuant to section 101 for such year as the product of—

"(A) the school-age population of the State, and

"(B) the state's allotment ratio (as determined under paragraph (2)), bears to the sum of the corresponding products for all the States.

"Payments to States

"Sec. 104. When he has computed a State's allotment for a year, the Commissioner shall certify the amount thereof to the District Director of Internal Revenue for the Internal Revenue District of which the State is a part (or, if the State lies in more than one such District, to the District Director designated by the Secretary of the Treasury). From the collections made from such State from taxes levied under part I of subchapter A of chapter 1 of subtitle A of the Internal Revenue Code of 1954 (relating to income tax on individuals), the District Director of Internal Revenue shall retain an amount equal to the State's allotment. He shall then pay the State's allotment for the year, in equal monthly installments, to the State educational agency. . . ."

Mr. [John] Taber [of New York]: Mr. Chairman, I make a point of order against the amendment on the ground that section 104 of the amendment constitutes an appropriation and it is on a bill coming from a committee not authorized to report appropriations.

That motion is in order at any time before the bill is enacted.

Mr. [Charles A.] Halleck [of Indiana]: Mr. Chairman, I would like to be heard on the point of order.

The Chairman:[13] The gentleman is recognized.

Mr. Halleck: In my opinion, the point of order comes too late. The amendment has been offered and reported and debate has begun on the amendment.

Mr. Taber: Mr. Chairman, it is specifically specified in the rules that that point of order is available at any time during the progress of the bill.

Mr. [H. R.] Gross [of Iowa]: Under rule XXI.

Mr. Taber: Under rule XXI.

The Chairman: As to the question of timeliness of the point of order, there is no question but that it can be made at this time.

The Chair feels that this language "shall pay the State's allotment for the year, in equal monthly installments, to the State educational agency" makes the amendment subject to the point of order.

The Chair sustains the point of order.

Corps of Engineers—Use of Prior Appropriations

§ 4.33 Where a committee amendment to a rivers and harbors authorization bill contained language which permitted the Chief of Engineers to use, for certain purposes, appropriations heretofore or hereinafter made for civil works, the amendment was conceded to contain an appropriation and was ruled out as in violation of

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[13] Francis E. Walter (Pa.).

Rule XXI clause 4 (subsequently clause 5).

On Oct. 3, 1962,(14) the Committee of the Whole was considering H.R. 13273, the rivers and harbors authorization bill for 1962. At one point the Clerk read a committee amendment as follows, and proceedings ensued as indicated below:

The Clerk read as follows:

Committee amendment: Page 13, line 15, insert:

"Sec. 102. (a) The Act approved August 13, 1946, as amended by the Act approved July 28, 1956 (33 U.S.C. 426e-h), pertaining to shore protection, is hereby further amended as follows: . . .

"(4) Sections 2 and 3 are amended to read as follows:

" 'Sec. 2. The Secretary of the Army is hereby authorized to reimburse local interests for work done by them . . . *Provided,* That the work which may have been done on the projects is approved by the Chief of Engineers as being in accordance with the authorized projects: *Provided further,* That such reimbursement shall be subject to appropriations applicable thereto or funds available therefor and shall not take precedence over other pending projects of higher priority for improvements.

" 'Sec. 3. The Chief of Engineers is hereby authorized to undertake construction of small shore and beach restoration and protection projects not specifically authorized by Congress, which otherwise comply with section 1 of this Act, when he finds that such work is advisable, and he is further authorized to allot from any appropriations heretofore or hereinafter made for civil works, not to exceed $3,000,000 for any one fiscal year for the Federal share of the costs of construction of such projects. . . .' "

Mr. [William C.] Cramer [of Florida]: Mr. Chairman, I raise a point of order against the amendment in that it appears clearly in the amendment that it is an appropriation on an authorization bill.

The Chairman:(15) Does the gentleman from Minnesota desire to be heard?

Mr. [John A.] Blatnik [of Minnesota]: Mr. Chairman, the committee concedes the point of order.

The Chairman: The Chair sustains the point of order.

The Chair will state, this applies to the entire amendment from page 13, line 15, down to and including line 19 on page 16.

Mr. Blatnik: Mr. Chairman, am I correct, then, that this applies to the entire section 102, it deletes that section?

The Chairman: That is correct.

Language Held to be "Authorization"

§ 4.34 Language in a bill authorizing an appropriation of not less than a certain amount for a specified purpose has been held not to be an appropriation.

On May 11, 1934,(16) the Committee of the Whole was consider-

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14. 108 Cong. Rec. 21883, 21884, 87th Cong. 2d Sess.

15. Francis E. Walter (Pa.).

16. 78 Cong. Rec. 8640, 73d Cong. 2d Sess.

ing a bill(17) which stated in part as follows:

> *Be it enacted, etc.,* That for the purpose of increasing employment by providing for emergency construction of public highways and other related projects there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of not less than $400,000,000 for allocation under the provisions of section 204 of the National Industrial Recovery Act.

A point of order was raised against the provision, as follows, and proceedings ensued as indicated below:

> MR. [JOHN] TABER [of New York]: The language of this section provides that there is authorized to be appropriated the sum of not less than $400,000,000. That is, in effect, a mandatory piece of legislation, and must result in an appropriation. This bill does not come from the Committee on Appropriations and therefore this section, with that language in it, is out of order. . . .
>
> THE CHAIRMAN:(18) . . . This is simply an authorization, and the point of order is overruled.

Reappropriation

§ 4.35 Language of an amendment providing that an appropriation when made should come out of any unexpended balances heretofore appropriated or made available for emergency purposes was held to be in order on a legislative bill since such language did not constitute an appropriation.

On Jan. 9, 1936,(1) the Committee of the Whole was considering H.R. 9870, a bill dealing with payment of adjusted service certificates. At one point the Clerk read as follows, and proceedings ensued as indicated below:

> Sec. 7. There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this act. . . .
>
> MR. [ALLEN T.] TREADWAY [of Massachusetts]: Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.
>
> The Clerk read as follows:
>
> > Amendment by Mr. Treadway: Page 7, line 13, after the word "appropriated", insert "out of any unexpended balances heretofore appropriated or made available for emergency purposes."
>
> MR. [WILLIAM M.] WHITTINGTON [of Mississippi]: Mr. Chairman, I make the point of order against the amendment that it is not definite enough. It does not specify what law or what appropriation is intended to be covered by the proposed amendment.
>
> MR. TREADWAY: Mr. Chairman, I should like to be heard on the point of order.
>
> MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Chairman, I make the further point of order that it is an appropriation. . . .

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17. H.R. 8781.
18. David D. Glover (Ark.).
1. 80 CONG. REC. 274, 74th Cong. 2d Sess.

THE CHAIRMAN:(2) The Chair does not think it necessary to hear the gentleman from Massachusetts unless the gentleman seeks to convince the Chair that the Chair would be in error in holding his amendment in order.

While it is restrictive and limits Congress to just one source in making its appropriation, while the bill in no way limits, the amendment is merely an authorization. It will require action on the part of Congress later to appropriate the money, and the Chair, therefore, overrules the point of order.(3)

Funds Made Available to Other Agencies

§ 4.36 Language in a bill reported by a legislative committee providing that all funds available for carrying out the act would be available for allotment to other bureaus and offices for a similar purpose was held not to be an appropriation, inasmuch as the bill permitted no use of existing funds but merely authorized new funds, when appropriated, to be so allocated.

On Apr. 8, 1936,(4) during consideration in the Committee of the Whole of H.R. 12037, the tobacco compact bill, the Clerk read as follows, and a point of order was made as indicated below:

Sec. 8. All funds available for carrying out this act shall be available for allotment to the bureaus and offices of the Department of Agriculture and for transfer to such other agencies of the Federal or State governments as the Secretary may request to cooperate or assist in carrying out this act.

MR. [CARL E.] MAPES [of Michigan]: Mr. Chairman, I desire to make a point of order against section 8 for the same reason as applied to section 7. The section makes available and transfers funds in the Treasury for a different purpose than that for which they have been appropriated, and I think under the precedents and decision of the Speaker and of the Chair it is subject to the same point of order as was raised to section 7. . . .

I call the Chair's attention to the fact that the fees paid by the handlers of tobacco for so-called marketing agreements under section 3 go into the Treasury of the United States and are a part of the funds referred to in this section. They would remain in the Treasury and not be available to the Secretary of Agriculture or to anyone except for the language in section 8. . . .

MR. [MARVIN] JONES [of Texas]: Mr. Chairman, I submit the suggestion that by the provisions of the amendment to the previous section any advance or loans repaid to the Secretary by any commission, and so forth, shall revert to the Treasury of the United States; so the point of order made by the gentleman is not applicable. Section 7(a) is where provision is made with reference to the funds mentioned in section 3. All that is involved in section 8 is the amount appropriated to the Secretary of Agriculture for administrative purposes, and this is merely a matter of allowing him to permit some other bureau assisting him to use the same fund. It is not a new appropriation, it is the same appropriation and it is for the same function, that of administration. It does not involve a new appropriation if a man's assistant spends the man's money helping do the job. In fact, this involves no appropriation at all. It only refers to the use of funds authorized to be appropriated in a previous section—if and when such appropriation is made.

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(2) Thomas L. Blanton (Tex.).

(3) Reappropriations are no longer permitted. See § 3, supra

(4) 80 CONG. REC. 5207, 5208, 74th Cong. 2d Sess.

If the gentleman from Michigan will look at the previous section, he will find the funds mentioned in section 3, and the collections thereof revert to the Treasury automatically, under the amendment which we just adopted and which takes the place of the provision which was stricken out. . . .

Mr. Mapes: Will not the gentleman from Texas admit that section 8 might divert some of the funds which may be appropriated under the committee's substitute for section 7, which would not be so diverted except for section 8?

Mr. Jones: That would be true for any part of the funds that are appropriated there for administrative purposes but not for advances and loans, because subdivision (b) of section 7 specifically eliminates all loans and advances and puts them back into the Treasury when they are repaid. So, by virtue of the limitation in section (b) this can apply only to administrative funds.

The Chairman:(5) . . . As the Chair understands, this bill does not carry any appropriation—that part of the bill was stricken out on a point of order—and therefore there are no funds available so far as the bill stands at the present time.

The Chair therefore overrules the point of order.

Farm Loans

§ 4.37 An amendment authorizing the making of farm loans was held not to be an appropriation under Rule XXI clause 4 (now clause 5).

On Jan. 25, 1937,(6) the Committee of the Whole was considering H.R. 1545. At one point the Clerk read as follows, and proceedings ensued as indicated below:

> Sec. 2. (a) No loan shall be made under this act to any applicant who shall not have first established to the satisfaction of the proper officer or employee of the Farm Credit Administration, under such regulations as the Governor may prescribe, that such applicant is unable to procure from other sources a loan in an amount reasonably adequate to meet his needs for the purposes for which loans may be made under this act; and preference shall be given to the applications of farmers whose cash requirements are small. . . .
>
> Amendment offered by Mr. Massingale: Amend paragraph C of section 2, page 3, by striking out the period after the word "prescribe", on line 5 of said paragraph, inserting a

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5. John R. Mitchell (Tenn.).

6. 81 Cong. Rec. 394–98, 75th Cong. 1st Sess.

comma, and adding the following: "and loans for seed oats shall be immediately available in localities where it is customary that sowing or planting shall be done in the late winter or early spring months." . . .[7]

Mr. [Marvin] Jones [of Texas]: Mr. Chairman, I am sorry to have to disagree with the gentleman from Oklahoma [Mr. Massingale].

Mr. Chairman, I make the point of order that the gentleman's amendment would amount to inserting an appropriation in a legislative bill. . . .

The Chairman:[8] The Chair overrules the gentleman's point of order insofar as the point of order is based on the ground that the amendment involves an appropriation.

Advances From Treasury

§ 4.38 Language authorizing and directing an executive officer to advance, when appropriated, sums of money out of the Treasury was held not to constitute an appropriation on a legislative bill.

On June 17, 1937,[9] the Committee of the Whole was considering H.R. 7472. At one point an amendment was offered and proceedings ensued as indicated below:

The Clerk read as follows:

Amendment offered by Mr. Nichols: Page 1, after line 4, insert the following:

"Title I—Authorization for Advance of Funds

"Until and including June 30, 1938, the Secretary of the Treasury, notwithstanding the provisions of the District of Columbia Appropriation Act approved June 29, 1922, is authorized and directed, when appropriated, to advance, on the requisition of the Commissioners of the District of Columbia, made in the manner now prescribed by law, out of any money in the Treasury of the United States not otherwise appropriated, such sums as may be necessary from time to time during said fiscal year to meet the general expenses of said District, as provided by law, and such amounts so advanced shall be reimbursed by the said Commissioners to the Treasury out of the taxes and revenue collected for the support of the government of the said District of Columbia."

Mr. [Thomas] O'Malley [of Wisconsin]: Mr. Chairman, a point of order. . . .

. . . I make the same point of order against the amendment as was raised by the gentleman from New York [Mr. Taber] and upon which the Chair just ruled. The language of the District of Columbia Appropriation Act makes this amendment an exception to the appropriation act. The amendment states "out of any money in the Treasury of the United States not otherwise appropriated." It seems to me the amendment seeks to have Congress authorize and appropriate a certain amount of money which the Congress would have to reimburse the Treasury for if the District itself was not able to reimburse the Treasury out of the revenues to be obtained under this bill.

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[7] Note: Loans are not considered charges against the Treasury.

[8] Edward E. Cox (Ga.).

[9] 81 Cong. Rec. 5914, 75th Cong. 1st Sess.

The Chairman:(10) The Chair is ready to rule. It is the opinion of the Chair that the language included in the amendment offered by the gentleman from Oklahoma [Mr. Nichols], which indicates that the money cannot become available until and when appropriated, is proper, and therefore overrules the point of order.

Parliamentarian's Note: The language objected to by Mr. John Taber, and subsequently referred to by Mr. O'Malley in his point of order, was substantially the same as that in the Nichols amendment, but did not include the phrase "when appropriated."(11)

Special Accounts for Specified Purposes

§ 4.39 Language directing that the proceeds of taxes shall be deposited in a special account in the Treasury entirely to the credit of the District of Columbia and would thereafter be appropriated and used solely and exclusively for certain enumerated purposes was held merely a direction to appropriate in the future and not in violation of Rule XXI clause 4 (subsequently clause 5), as being an appropriation on a legislative bill.

On June 17, 1937,(12) the Committee of the Whole was considering H.R. 7472. At one point the Clerk read as follows, and proceedings ensued as indicated below:

"All proceeds of the taxes imposed under this act . . . shall be deposited in a special account in the Treasury of the United States entirely to the credit of the District of Columbia, and shall be appropriated and used solely and exclusively for the following purposes:

"(1) For the construction, reconstruction, improvement, and maintenance of public highways, including the necessary administrative expenses in connection therewith. . . ."

Mr. [Albert J.] Engel [of Michigan]: Mr. Chairman, I make a point of order against that part of section 2 on page 12, line 2, beginning with the words "and shall", through and including line 24 on page 12, on the ground that it is an appropriation and violates the rule which requires that appropriations shall come from the Committee on Appropriations.

The Chairman:(13) Will the gentleman advise the Chair of the language to which he makes the point of order.

Mr. Engel: On page 12, line 2, commencing with the words "and shall be appropriated", continuing through the remainder of the section.

The Chairman: Does the gentleman from Illinois desire to be heard on the point of order?

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10. James M. Mead (N.Y.).
11. 81 Cong. Rec. 5910, 75th Cong. 1st Sess.
12. 81 Cong. Rec. 5924, 5925, 75th Cong. 1st Sess.
13. James M. Mead (N.Y.).

MR. [EVERETT M.] DIRKSEN [of Illinois]: Yes, Mr. Chairman. I do not believe the point of order will lie. This section first does not appropriate any money. It is only an affirmative direction for the expenditure of money or an indication of how the money shall be expended, but it does not undertake, either by language or implication, to appropriate money.

THE CHAIRMAN: The Chair is ready to rule. The Chair will state that the gentleman from Illinois [Mr. Dirksen] has stated the matter correctly. The point of order is overruled.

"Appropriation" Defined as "Payment of Funds From the Treasury"

§ 4.40 A bill to regulate barbers in the District of Columbia containing language providing that fees and charges payable under the act would be paid to the secretary-treasurer of a board to carry out these regulations and providing compensation of members of the board from such funds was held not to be an appropriation of funds from the Treasury where it was stated that expenses under the bill were not chargeable against the United States or the District of Columbia.

On Jan. 24, 1938,(14) the House was considering H.R. 7085. At one point the Clerk read as follows, and a point of order was raised as indicated below:

Sec. 11. All fees and charges payable under the provisions of this act shall be paid to the secretary-treasurer of the Board. The Board is hereby authorized to refund any license fee or tax, or portion thereof, erroneously paid or collected under this act.

(a) For the examination of an applicant for a certificate as a registered barber, $5. . . .

Sec. 12. The Commissioners are authorized and directed to provide suitable quarters for examinations and equipment to the Board and for the compensation of the members of the Board at the rate of $9 per day . . . *Provided,* That payments under this section shall not exceed the amount received from the fees provided for in this act; and if at the close of each fiscal year any funds unexpended in excess of the sum of $1,000 shall be paid into the Treasury of the United States to the credit of the District of Columbia: *Provided,* That no expense incurred under this act shall be a charge against the funds of the United States or the District of Columbia. . . .

MR. [THOMAS] O'MALLEY [of Wisconsin]: Mr. Speaker, I make the point of order that sections 11 and 12 provide for an appropriation which the Committee on the District of Columbia, as a legislative committee, is not authorized to do. Section 11 sets up a schedule of fees and section 12 appropriates such fees to the use of the Commissioners, stating that any sums unexpended in excess of a thousand dollars shall revert to the Treasury. . . .

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14. 83 CONG. REC. 1008, 1009, 75th Cong. 3d Sess.

The Speaker:(15) The Chair is ready to rule on the point of order raised by the gentleman from Wisconsin.

The gentleman from Wisconsin makes the point of order against section 12 of the bill that under the terms of the section there is an appropriation of funds out of the Public Treasury.

If, in the opinion of the Chair, the language of the section sustained that position, clearly the point of order of the gentleman from Wisconsin would be good. However, the Chair calls attention to the fact it is stated in a precedent which will be found in the Congressional Record, Sixty-seventh Congress, first session, page 3388:

> The term "appropriation" in the rule means the payment of funds from the Treasury.

As far as the Chair is able to read the language of section 12, it provides only the payment of funds into the Treasury under certain contingencies, and does not provide for the payment of funds out of the Treasury.

For the reasons stated, the Chair overrules the point of order made by the gentleman from Wisconsin.

Unused Appropriations Paid Into Treasury Account

§ 4.41 A provision in a legislative bill providing that sums already appropriated and not used for making parity payments would be covered into the Treasury to offset the subsequent appropriations made pursuant to the authority of the bill under consideration was held not in violation of Rule XXI clause 4 (subsequently clause 5), inasmuch as further action would be required to appropriate such sums authorized.

On Jan. 29, 1942,(16) the Committee of the Whole was considering H.R. 6350, a bill dealing with relief for certain agricultural producers. The following proceedings took place:

Mr. [Francis H.] Case of South Dakota: Mr. Chairman, I wish to make a point of order against paragraph (b), on the ground that it violates clause 4 of rule XXI.

Paragraph (b) reads as follows:

> The Congress further determines that substantial amounts of the sums which have heretofore been appropriated for making parity payments will not be needed for making such payments; and it hereby directs that so much of the money appropriated in the Department of Agriculture Appropriation Act, 1942, for the purpose of making parity payments as is not used for such purpose shall be covered into the Treasury to offset the appropriations made pursuant to the authority of this act. . . .

My contention is that paragraph (b) diverts an appropriation already made to a different purpose, therefore is a violation of the rule. If there should be any doubt in the mind of the Chair, I should like to be heard further on the point of order.

The Chairman:(17) Does the gentleman from South Carolina [Mr. Fulmer]

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15. William B. Bankhead (Ala.).

16. 88 Cong. Rec. 851, 852, 77th Cong. 2d Sess.

17. Alfred L. Bulwinkle (N.C.).

desire to be heard on the point of order?

MR. [HAMPTON P.] FULMER: Mr. Chairman, I do not care to comment on the point of order except to state I do not believe that the point of order is germane; therefore, it should not be sustained. . . .

THE CHAIRMAN: The Chair is ready to rule.

The Chair has examined this paragraph very carefully. The Chair calls attention to the fact that the pargraph provides that the sum of money, whatever sum it may be, appropriated for the purpose of making parity payments and not used for such purpose shall be covered into the Treasury to offset the appropriations made pursuant to the authority of this act.

The paragraph contemplates that there will be further action by the Congress before any appropriation is made available. Therefore, the Chair overrules the point of order.

MR. CASE of South Dakota: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. CASE of South Dakota: Is the holding of the Chair in the language the Chair just used to the effect that further action is necessary, that under the legislative history of this bill it would not be possible for the proponents of this legislation to come before the Committee on Appropriations and maintain that the hands of the Committee on Appropriations had already been tied by the action on this bill?

THE CHAIRMAN: Before there could be any activity under the provisions of this bill, there must be appropriate action by the Congress making money available for the purposes therein set forth.

Membership in International Organization

§ 4.42 Language in a bill reported by a legislative committee providing "that the President is hereby authorized to accept membership for the United States in the United Nations Educational, Scientific, and Cultural Organization, the Constitution of which was approved in London on November 16, 1945, by the United Nations Conference for the establishment of an Educational, Scientific, and Cultural Organization, and deposited in the Archives of the Government of the United Kingdom" was held not to involve an appropriation in violation of Rule XXI clause 4 (subsequently clause 5) merely because the constitution of the organization provided that "the general conference shall approve and give final effect to the budget and to the apportionment of financial responsibility among the states members of the organization . . ." since a subsequent appropriation was authorized by the bill.

On May 21, 1946,[18] the Committee of the Whole was considering House Joint Resolution 305, relating to United States participation in the United Nations Educational, Scientific, and Cultural Organization. The following proceedings took place as the joint resolution was considered for amendment:

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[18] 92 CONG. REC. 5388-95, 79th Cong. 2d Sess.

> *Resolved, etc.,* That the President is hereby authorized to accept membership for the United States in the United Nations Educational, Scientific, and Cultural Organization (hereinafter referred to as the "Organization"), the constitution of which was approved in London on November 16, 1945. . . .

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against section 1 of the bill, beginning in line 3 on page 1, and ending in line 2 on page 2. . . .

I make the point of order, Mr. Chairman, on the ground that it is an appropriation coming from a committee not authorized to report appropriations to the House. That kind of a point of order can be made at any time during the consideration of the bill.

I call the attention of the Chair to article IX of the constitution of this Organization which appears in the report of the committee on page 9.

It says:

> The General Conference shall approve and give final effect to the budget and to the apportionment of financial responsibility among the states members of the Organization subject to such arrangement with the United Nations as may be provided in the agreement to be entered into pursuant to article X.

Let me call attention to the fact that this authorizes the validation of that article. . . .

THE CHAIRMAN:(19) The Chair is prepared to rule. The gentleman from New York makes a point of order against section 1 of the resolution on the ground that it appropriates money and comes from a committee not authorized to make appropriations.

No appropriation is made in section 1 of the bill.

Section 4 of the joint resolution would authorize an appropriation at a later date to be appropriated by the appropriate committee.(20)

The Chair overrules the point of order.

MR. [FRANK A.] MATHEWS [Jr., of New Jersey]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. MATHEWS: The point of order is as follows: As I understand, upon the adoption of this resolution the United

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19. William M. Colmer (Miss.).

20. Sec. 4 stated in part:

> There is hereby authorized to be appropriated annually to the Department of State, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for the payment by the United States of its share of the expenses of the Organization as apportioned by the General Conference of the Organization in accordance with article IX of the constitution of the Organization, and such additional sums as may be necessary to pay the expenses of participation by the United States in the activities of the Organization.

States of America authorizes the President to make it, the United States, a member of this Organization whose constitution is set forth in the report of the committee.

Under article IX of that constitution headed "Budget" the following appears:

> Sec. 1. The budget shall be administered by the Organization.
>
> 2. The General Conference shall approve and give final effect to the budget and to the apportionment of financial responsibility among the states members of the Organization—

And so forth. I contend, Mr. Chairman, that that in effect practically delegates the power of appropriation of this body to an organization or a part of an organization which is not composed of Members of this body and not acting officially. I contend further, therefore, that we have no right constitutionally to so delegate liability for those appropriations or expenditures. . . .

Mr. [Karl E.] Mundt [of South Dakota]: May I suggest to the gentleman from New Jersey that the Chair has already ruled on practically an identical point of order.

Mr. Mathews: That was not the same point.

The Chairman: The Chair is prepared to rule. The Chair, in construing a point of order raised by the gentleman from New York [Mr. Taber] on a similar proposition, ruled that it was not an appropriation and, therefore, the point of order did not lie. The Chair calls the attention of the gentleman from New Jersey to the fact that section 4, page 5, is the authorization section of the joint resolution, and that money could not be appropriated until it was authorized by that section.

The point of order is overruled.

Loans From Public Debt Proceeds

§ 4.43 A discussion of the nature of an "appropriation" took place in the House when language in a housing bill authorizing the Secretary of the Treasury to use proceeds of public-debt issues for the purpose of making loans was held not to be an appropriation and not in violation of Rule XXI clause 4 (subsequently clause 5).

On June 27, 1949,(21) the House resolved itself into the Committee of the Whole to consider the Housing Act of 1949.(22) During the committee's consideration, the following language was read:(1)

> (e) To obtain funds for loans under this title, the Administrator, on and after July 1, 1949, may, with the approval of the President, issue and have outstanding at any one time notes and obligations for purchase by the Secretary of the Treasury in an amount not to exceed $25,000,000. . . .
>
> (f) Notes or other obligations issued by the Administrator under this title shall be in such forms and denominations, have such maturities, and be

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21. 95 Cong. Rec. 8451, 81st Cong. 1st Sess.
22. H.R. 4009.
1. 95 Cong. Rec. 8480, 81st Cong. 1st Sess.

subject to such terms and conditions as may be prescribed by the Administrator, with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations of the Administrator issued under this title and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such act, as amended, are extended to include any purchases of such notes and other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

On the next day, Members discussed the effect of such language:[2]

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, the point of order I make is that subparagraphs (e) and (f) of section 102 in title I constitute the appropriation of funds from the Federal Treasury, and that the Committee on Banking and Currency is without jurisdiction to report a bill carrying appropriations under clause 4, rule 21, which says that no bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations.

This is no casual point of order made as a tactical maneuver in consideration of the bill. I make this point of order because this proposes to expand and develop a device or mechanism for getting funds out of the Federal Treasury in an unprecedented degree.

The Constitution has said that no money shall be drawn from the Treasury but in consequence of appropriations made by law. It must follow that the mechanism which gets the money out of the Treasury is an appropriation.

I invite the attention of the Chairman to the fact that subparagraph (e) states:

> To obtain funds for loans under this title, the Administrator may issue and have outstanding at any one time notes and obligations for purchase by the Secretary of the Treasury in an amount not to exceed $25,000,000, which limit on such outstanding amount shall be increased by $225,000,000 on July 1, 1950, and by further amounts of $250,000,000 on July 1 in each of the years 1951, 1952, and 1953, respectively—

Within the total authorization of $1,000,000,000.

Further that subparagraph (f) provides that—

> The Secretary of the Treasury is authorized and directed—

And I call particular attention to the use of the words "and directed"—

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[2] *Id.* at pp. 8536–38.

> to purchase any notes and other obligations of the Administrator issued under this title and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended—

And so forth. The way in which this particular language extends this device of giving the Secretary authority to subscribe for notes by some authority is this: It includes the words "and directed."

In other words, the Secretary of the Treasury has no alternative when the Administrator presents to him some of these securities for purchase but to purchase them. The Secretary of the Treasury is not limited to purchasing them by proceeds from the sale of bonds or securities. He is directed to purchase these notes and obligations issued by the Administrator. That means he might use funds obtained from taxes, that he might use funds obtained through the assignment of miscellaneous receipts to the Treasury, that he might use funds obtained through the proceeds of bonds. . . .

Mr. Chairman, this is not, as I said earlier, a casual point of order; we are here dealing with the fundamental power of the Congress to control appropriations. No such device has ever before, so far as I can find out, been presented to the Congress for getting money in the guise of a legislative bill without its having been considered by the Committee on Appropriations. It is a mandatory extraction of funds from the Public Treasury, and, consequently, constitutes an appropriation and is beyond the authority or the jurisdiction of the Committee on Banking and Currency to report in this bill. . . .

Mr. [Brent] Spence [of Kentucky]: Mr. Chairman, the raising of funds by public debt transaction has been frequently authorized by the Congress: The Export-Import Bank raises funds by that method; the Bretton Woods Agreement, in my recollection, is carried out by that method; the British loan was financed by that method, and the Federal Deposit Insurance Corporation was also financed by that method. It does not seem to me that this is a seasonable objection. This has been the policy of the Congress for years.

Mr. Chairman, this is not raising money to be appropriated for the purposes that ordinary appropriation bills carry. All of this money is to be used as loans.

The gentleman says that in other acts the Secretary of the Treasury is "authorized" but not "directed." I contend that the meaning of "authorized" and "directed" in this act is absolutely the same.

Do you think when you authorize the Secretary of the Treasury to raise funds to carry out a great public purpose it is in his discretion whether he shall raise those funds and that that shall depend on the discretion of the Secretary of the Treasury? I say "authorized" in this sense means "directed." It could not mean anything else, otherwise you would be delegating to an officer of the Government entire discretion as to whether or not great national acts should be carried out and the purposes of Congress should be subserved.

Mr. Case of South Dakota: Mr. Chairman, in most of the acts which the gentleman has suggested, points of order were waived, and I refer to Bretton Woods and some of the other bills. But as to the particular point here in issue, the question whether the words "and directed" have any meaning, if they do not have any meaning why are they there? The present housing act merely authorizes the Secretary of the Treasury to purchase. It does not say "and directed." The very inclusion of the words "and directed" is evidence of the fact they have a special meaning. They create a mandatory extraction of funds from the Public Treasury.

Mr. Spence: Mr. Chairman, I still contend unless you would make our acts a nullity "authorized" and "directed" have exactly the same meaning when applied to a public official charged with carrying out a great national act. I do not think there can be any reasonable construction that would hold otherwise. . . .

Mr. [John W.] McCormack [of Massachusetts]: Mr. Chairman, I agree with my friend who has raised the point of order that this is not a casual one, but, on the contrary, is a very sincere one. It presents a new question from a legislative angle to be passed upon in the direct question raised by the point of order.

The gentleman from South Dakota has referred to the Constitution. The Constitution says:

> No money shall be drawn from the Treasury but in consequence of appropriations made by law.

The word "appropriations" is used.

The rule referred to, clause 4, rule 21, says:

> No bill or resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations.

You will note the word "appropriations" is used. Now, let us see what "appropriations" means.

I have before me Funk & Wagnalls Standard Dictionary and "appropriations" is defined as follows:

> To set apart for a particular use. To take for one's own use.

The provisions of this bill are not taking for one's own use, because this is a loan designed purely for loan purposes. It is not a definite appropriation. It is giving authority to utilize for loan purposes and the money comes back into the Treasury of the United States with interest.

Again, the word "appropriations" is defined:

> Something, as money, appropriated—

I call particular attention to those words "something, as money, appropriated"—

> or set apart, as by a legislature, for a special use.

I repeat "something, as money."

The provision in paragraph (f) that my friend has raised a point of order against relates entirely to loans. As we read section 102 of title I it starts out with loans. Throughout the bill, a number of times, there is reference to loans.

Paragraph (e) says:

> To obtain funds for loans under this title.

It is a loan.

The meat of the two paragraphs, as I see it, is this:

Paragraph (f), line 23, page 8, says:

> The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations of the Administrator issued under this title and for such purpose is authorized to use as a public-debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such act, as amended, are extended to include any purchases of such notes and other obligations.

It seems to me that that is the meat. Certainly, the language there does not amount to an appropriation. It is entirely for loan purposes. . . .

MR. [RALPH E.] CHURCH [of Illinois]: The gentleman has discussed the point—the difference between the word "authorized" and "directed." Does not the gentleman realize that he is "authorized" to appear on the floor and "authorized" to make statements? The gentleman is not "directed" to. Now, following further, the Committee on Appropriations of this House is "authorized" to do certain things, but the gentleman must realize that the Committee on Appropriations is not "directed" to do certain things. There is a real difference, a constitutional difference between the words "authorized" and "directed." The gentleman is "authorized" to walk down the street and "authorized" to do many things. But the gentleman would fight for his right not to be "directed" to do what he is "authorized" to do. The gentleman's argument is farfetched. This is a serious situation.

MR. MCCORMACK: There is nothing the gentleman has said that I can disagree with except that everything the gentleman has said has no application to the matter pending now. The basic question here is whether or not this is an appropriation within the meaning of the rules or money that is going to be utilized for loan purposes and recovered back into the General Treasury. So the gentleman's observations, as I see it, respecting the gentleman as I do, have no application at all to the basic and pertinent question presented to the Chair by the point of order raised by the gentleman from South Dakota. . . .

MR. [JOHN] PHILLIPS of California: The question has to do with the meaning of "authorized and directed." Within the past 6 weeks I have had a bill before one of the major committees of this House. The county counsel of my home county raised the question of whether the wording should be "authorized" or "authorized and directed" in four different places in the bill. It was taken up with the attorneys for the Interior Department. The attorneys recognized the distinction between "authorized" and "authorized and directed," and agreed upon the inclusion in certain instances and not in others. There is a recognized distinction, Mr. Chairman.

THE CHAIRMAN:[3] The Chair is prepared to rule.

The Chair agrees with the gentleman from South Dakota that the point which has been raised is not a casual point of order. As a matter of fact, as far as the Chair has been able to ascertain, this is the first time a point of order has been raised on this issue as violative of clause 4 of rule XXI.

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[3] Hale Boggs (La.).

As the Chair sees the point of order, the issue involved turns on the meaning of the word "appropriation." "Appropriation," in its usual and customary interpretation, means taking money out of the Treasury by appropriate legislative language for the support of the general functions of Government. The language before us does not do that. This language authorizes the Secretary of the Treasury to use proceeds of public-debt issues for the purpose of making loans. Under the language, the Treasury of the United States makes advances which will be repaid in full with interest over a period of years without cost to the taxpayers.

Therefore, the Chair rules that this language does not constitute an appropriation, and overrules the point of order. . . .

MR. CASE of South Dakota: Would the Chair hold then that that language restricts the Secretary of the Treasury to using the proceeds of the securities issued under the Second Liberty Bond Act and prevents him from using the proceeds from miscellaneous receipts or tax revenues?

THE CHAIRMAN: The Chair does not have authority to draw that distinction. The Chair is passing on the particular point which has been raised. . . . The Chair can make a distinction between the general funds of the Treasury and money raised for a specific purpose by the issuance of securities. That is the point involved here.

Future Foreign Currency Proceeds From Exports

§ 4.44 To a bill reported by the Committee on Foreign Affairs, an amendment earmarking a specified amount of the funds authorized by the bill to be used specifically for the purchase and export of surplus agricultural commodities and providing that future foreign currency proceeds therefrom would be used for the purposes of the act was held not to be an appropriation in violation of Rule XXI clause 4 (now clause 5).

On June 29, 1954,(4) the Committee of the Whole was considering H.R. 9678, the Mutual Security Act of 1954. An amendment was offered and a point of order raised as indicated below:

The Clerk read as follows:

> Amendment offered by Mr. Judd:
>
> Page 29, line 15, strike out all on lines 15 through 23 and insert in lieu thereof the following:
>
> "Sec. 402. Earmarking of funds: Of the funds authorized to be made available pursuant to this act, not less than $500 million shall be used to finance the purchase and export of surplus agricultural commodities or products thereof produced in the United States and foreign currency proceeds therefrom shall be used for the purposes of this act pursuant to

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4. 100 CONG. REC. 9238, 9239, 83d Cong. 2d Sess.

section 104 of the Agricultural Trade and Development Act of 1954."

Mr. [John] Taber [of New York]: Mr. Chairman, a point of order.

The Chairman:(5) The gentleman will state it.

Mr. Taber: Mr. Chairman, I make the . . . point of order that it involves an appropriation of funds, and I call attention to the fact that the language says that these funds that are realized from the sale of these products can be used for a particular purpose. That makes an appropriation out of it.

The Chairman: Does the gentleman from Minnesota desire to be heard?

Mr. [Walter H.] Judd [of Minnesota]: Yes, Mr. Chairman.

This is not an appropriation. The total bill authorizes the appropriation of about $3.4 billion. This section is a limitation or earmarking of funds that may be appropriated under the authorization. It says that of the $3.4 billion, if and when it is appropriated, not less than $500 million shall be used for a given purpose. This is language that is almost word for word the same as section 550 of the act last year, except the act last year said not less than $100 million and not to exceed $250 million should be used for this purpose of purchasing surplus agricultural commodities to be used as aid instead of dollars. . . .

The Chairman: The Chair is prepared to rule.

On a careful reading of the amendment as modified—and I wish to read the wording of it—"of the funds authorized to be made available pursuant to this act not less than," and so forth—it is the ruling of the Chair that this amendment should be interpreted to mean that unless the appropriation is first authorized, the amendment has no effect whatsoever and therefore the Chair overrules the point of order.

Parliamentarian's Note: See § 4.23, supra, where language authorizing new use of existing foreign currency proceeds already available for a different purpose under existing law was ruled out as an appropriation.

Reconstituted Area Redevelopment Fund

§ 4.45 Language in an amendment to a bill reported by the Committee on Banking and Currency repealing the public-debt financing provisions of the Area Redevelopment (revolving) Fund, and, in lieu thereof, authorizing appropriations for a reconstituted Area Redevelopment Fund, was held not to be an appropriation within the purview of Rule XXI clause 4 (subsequently clause 5) where another section of the bill authorized subsequent appropriations for the fund.

On June 12, 1963,(6) the Committee of the Whole was consider-

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5. Clarence J. Brown (Ohio).

6. 109 Cong. Rec. 10721, 10722, 88th Cong. 1st Sess.

ing H.R. 4996, a bill amending the Area Redevelopment Act. At one point the Clerk read as follows, and a point of order was raised as indicated below:

> Sec. 6. (a) Subsection (a) of section 9 of the Area Redevelopment Act is repealed.
>
> (b) Subsection (b) of section 9 of such Act is redesignated as subsection (a), and the first sentence of such subsection as so redesignated is amended to read as follows: "There shall be in the Treasury of the United States an area redevelopment fund (hereinafter referred to as the 'fund') which shall be available to the Secretary for the purpose of extending financial assistance under sections 6 and 7 and for repayment of all obligations and expenditures arising therefrom.". . .

Mr. [H. R.] Gross [of Iowa]: Mr. Chairman, a point of order.

The Chairman:[7] The gentleman from Iowa will state it.

Mr. Gross: Mr. Chairman, I make a point of order against the language on page 5, line 18, beginning with the words "and the first sentence of such subsection as so redesignated is amended to read as follows:". . .

Mr. Chairman, I make the point of order that this constitutes, in fact, an appropriation in a legislative bill.

The Chairman: Does the gentleman from Texas desire to be heard on the point of order?

Mr. [Wright] Patman [of Texas]: Mr. Chairman, this just merely restates existing law. It just creates a fund which already exists, really, and the fund will be supplemented by the amount appropriated through regular channels. . . .

The Chairman: The Chair would like to inquire of the gentleman whether or not additional appropriations are required for this fund?

Mr. Patman: Yes, sir; they are required.

The Chairman: They are required?

Mr. Patman: Yes; section 10 says:

> Funds appropriated for the purpose of extending financial assistance under sections 6 and 7 shall be deposited in the Area Redevelopment Fund in the Treasury of the United States.

The Chairman: Additional legislation would be necessary to appropriate funds. The Chair holds this is an authorization and overrules the point of order.

Use of Loan Repayments

§ 4.46 Language in an amendment to a bill reported by the Committee on Banking and Currency repealing the public debt financing provisions of the Area Redevelopment Act fund, in lieu thereof authorizing appropriations for a reconstituted fund, and applying receipts from the repayments of loans to the credit of available appropriations was held not to be an appropriation within the purview of Rule XXI clause 4 (subsequently clause 5) upon assurances that such receipts could not be reused without a subsequent appropriation.

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[7] Frank M. Karsten (Mo.).

On June 12, 1963,(8) during consideration in the Committee of the Whole of the Area Redevelopment Act amendments (H.R. 4996) a point of order was raised against the following language, and proceedings ensued as indicated below:

> Sec. 7. Section 11 of the Area Redevelopment Act is amended—
>
> (1) by striking out "$4,500,000" and inserting in lieu thereof "$10,000,000"; and
>
> (2) by inserting before the last sentence the following: "The Secretary, in his discretion, may require repayment of the assistance provided under this section and prescribe the terms and conditions of such repayment. Receipts from such repayments shall be credited to the appropriation available for assistance under this section which is current at the time of repayment.". . .
>
> Mr. [H. R.] Gross [of Iowa]: Mr. Chairman, a point of order.
>
> The Chairman:(9) The gentleman will state it.
>
> Mr. Gross: Mr. Chairman, I make a point of order against the language found on page 6 of the bill, line 23, which reads as follows:
>
> > Receipts from such repayments shall be credited to the appropriation available for assistance under this section which is current at the time of repayment.
>
> I again make the point of order that this constitutes in fact an appropriation in a legislative act.
>
> The Chairman: Does the gentleman from Texas wish to be heard on the point of order?
>
> Mr. [Wright] Patman [of Texas]: Mr. Chairman, this concerns repayment and disposal of it after it has been repaid from which it was originally appropriated. I do not believe the gentleman's point of order is well taken.
>
> The Chairman: May the Chair inquire whether these funds can be reused?
>
> Mr. Patman: I am sure they have to be reappropriated. The funds received cannot be reused, they have to be reappropriated.
>
> The Chairman: Relying upon that assurance, the Chair overrules the point of order because additional legislation would be necessary.

Senate Ruling on Public Debt Transaction Financing

§ 4.47 The Presiding Officer of the Senate ruled that a provision in a bill authorizing use of proceeds of public debt transactions for financing loans to the Development Loan Fund did not constitute an appropriation in a legislative bill in contravention of Senate Rule XVI.

On July 1, 1959,(10) the following point of order was raised, and

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8. 109 Cong. Rec. 10722, 88th Cong. 1st Sess.

9. Frank M. Karsten (Mo.).

10. 105 Cong. Rec. 12435-37, 86th Cong. 1st Sess.

See also § 4.43, supra, for a similar ruling under the rules of the House.

the proceedings were as indicated below:

Mr. [Francis H.] Case of South Dakota: Mr. President, I desire to make a point of order regarding the language which appears on page 16, beginning in line 13, and through line 13 on page 17. That part of the bill is section 203; and I make the point of order against it. . . .

The point of order is that that provision constitutes an appropriation, and that an appropriation cannot be made in a legislative bill reported by the Foreign Relations Committee. . . .

I invite the attention of the Chair to the language of the provision itself:

> (b) For purposes of the loans provided for in this section, the Secretary of the Treasury is authorized to use the proceeds of the sale of any securities issued under the Second Liberty Bond Act as now in force or as hereafter amended, and the purposes for which securities may be issued under the Second Liberty Bond Act are hereby extended to include this purpose. The President shall determine the terms and conditions of any advances or loans made to the Fund pursuant to this section. . . .
>
> The amount of such obligations also may not exceed the limitations specified in section 203(a) of this Act except that, to the extent that assets of the Fund other than capitalization provided pursuant to section 203(a) are available, obligations may be incurred beyond such limitations. . . .

The Presiding Officer:(11) The Chair has not had an opportunity to study the point of order. After discussion with the Parliamentarian, the Chair believes it may be necessary to examine the precedents in connection with this matter.

The Chair wonders whether the chairman of the Foreign Relations Committee has any comment to make in connection with this matter.

Mr. [J. William] Fulbright [of Arkansas]: Mr. President, I think the precedents are so clear that the Chair would not need to study the matter. There have been many precedents. The form of this provision is precisely the same as the language used 2 years ago when the Senate voted to approve this very operation of borrowing through the public debt transactions. . . .

The Presiding Officer: In view of the precedents of other legislation which has passed this body, including revolving funds created thereunder, even though the point of order was not squarely raised before, the Chair feels disposed to follow the precedents, and overrules the point of order.

§ 5. Contingent Fund Expenditures

Money appropriated for the contingent fund of the House is used for such miscellaneous purposes as employees salaries or salary increases, including those of committee investigative personnel; certain allowances;(12) housekeeping actions;(13) and the like. Simple House resolutions, which provide for expenditures from the contingent fund, are reported by the Committee on House Administration and called up as privileged.(14)

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(11) Frank E. Moss (Utah).

(12) On one occasion, expenses incident to a special session of Congress, includ-

On occasion, a resolution not formally reported by the Committee on House Administration, providing for payment from the contingent fund of salaries of investigative personnel of standing and select committees for a three months period (pending adoption of annual committee funding resolution), is called up and agreed to by unanimous consent.(15)

The Committee on House Administration formerly had authority to fix allowances without subsequent House approval. Such authority, except for cost of living adjustments, was withdrawn on July 1, 1976, by a House resolution thereafter enacted into law. Subsequent House approval is presently required for Committee on House Administration orders fixing allowances beyond the 94th Congress.(16)

Privileged Resolution

§ 5.1 A resolution reported by the Committee on House Administration providing for an expenditure from the contingent fund is called up as privileged.

On June 16, 1965,(1) a resolution(2) authorizing each Member and the Resident Commissioner to employ a "summer Congressional Intern" and permitting payment from the contingent fund of amounts required to carry out the resolution, was reported by the Committee on House Administration and called up as privileged:

> MR. [SAMUEL N.] FRIEDEL [of Maryland]: Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 416, with amendments thereto, and ask for its immediate consideration.
>
> The Clerk read the resolution, as follows:
>
> H. RES. 416
>
> *Resolved*, That (a) notwithstanding any other provision of law, each Member of the House of Representa-

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ing mileage for the Vice President, Senators, and Representatives, and payments to pages, were provided for by appropriations made in a joint resolution. See § 8.21, infra.

(13) See *Procedure in the U.S. House of Representatives*, Ch. 6 §§ 10–13 (4th ed.).

(14) See § 5.1, infra.

(15) See *Procedure in the U.S. House of Representatives* Ch. 25 § 4.4 (4th ed.).

(16) See *Procedure in the U.S. House of Representatives* Ch. 25 § 4.5 (4th ed.).

(1) 111 CONG. REC. 13799, 89th Cong. 1st Sess.

(2) H. Res. 416.

> tives and the Resident Commissioner from Puerto Rico are authorized to hire . . . one additional employee. . . . For this purpose each Member of the House of Representatives and the Resident Commissioner from Puerto Rico shall have available for payment to such intern a gross allowance of $750 . . . payable from the contingent fund of the House until otherwise provided by law.

In response to a parliamentary inquiry, Speaker John W. McCormack, of Massachusetts, indicated that such a report, privileged under Rule XI, may be called up for consideration on the same day reported, and unanimous consent is not required.

Parliamentarian's Note: Such reports are now subject to the three-day layover requirement of Rule XI clause 2(l)(6).

§ 5.2 A resolution reported by the Committee on House Administration, providing for payment from the contingent fund of additional compensation for certain positions created by House resolution, was called up as privileged.

On Aug. 5, 1970,[3] the following proceedings took place:

> MR. [WAYNE L.] HAYS [of Ohio]: Mr. Speaker, by direction of the Committee on House Administration, I [call up] a privileged report (Rept. No. 91-1378) on the resolution (H. Res. 1117) relating to the compensation of two positions created by House Resolution 543, 89th Congress, and ask for immediate consideration of the resolution.
>
> The Clerk read the resolution as follows:
>
> H. RES. 1171
>
> *Resolved,* That, until otherwise provided by law, effective as of January 1, 1970, the per annum (gross) rate of compensation (basic compensation plus additional compensation authorized by law) of each of the two positions referred to in House Resolution 543, Eighty-ninth Congress, shall not exceed the annual rate of basic pay for level IV of the Executive Schedule of section 5315 of title 5, United States Code. The contingent fund of the House of Representatives is made available to carry out the purposes of this resolution.
>
> [The resolution was rejected.]

Surplus Contingent Funds

§ 5.3 The House agreed to a resolution authorizing the transfer of surplus 1960 contingent funds to liquidate 1962 contingent fund obligations of the House.

On June 21, 1962,[4] the following proceedings took place:

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[3] 116 CONG. REC. 27449-51, 91st Cong. 2d Sess.

[4] 108 CONG. REC. 11314, 87th Cong. 2d Sess.

See also 109 CONG. REC. 11462, 88th Cong. 1st Sess., June 25, 1963, for a resolution authorizing transfer of surplus 1961 contingent funds to liquidate 1963 contingent fund obligations of the House.

Mr. [Samuel N.] Friedel [of Maryland]: Mr. Speaker, by direction of the Committee on House Administration, I call up the resolution (H. Res. 694) authorizing the transfer of certain funds within the contingent fund of the House of Representatives, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

> *Resolved,* That such funds as may be necessary to liquidate the 1962 obligations may be transferred, within the contingent fund of the House of Representatives, from "Miscellaneous Items, 1960", to "Special and Select Committees, 1962".

The resolution was agreed to.

A motion to reconsider was laid on the table.

B. REPORTING AND CONSIDERATION OF APPROPRIATION BILLS

§ 6. Generally; Privileged Status

The rules(5) give a privileged status to reports on general appropriation bills. Under the rules, the Committee on Appropriations is given "leave to report at any time" on general appropriation bills. But the privilege is subject to the requirement under another rule(6) that general appropriation bills not be considered in the House until printed committee hearings and a committee report thereon have been available for the Members for at least three calendar days (excluding Saturdays, Sundays, and legal holidays). Of course, the rule requiring printed hearings and the committee report to have been available for three days may be waived by unanimous consent.(7)

The precedence of appropriation bills is also recognized in provisions relating to the order of business in Committee of the Whole.(8) But the usual practice is to consider general appropriation bills under the rule giving privileged status to a motion that the House resolve itself into the Committee of the Whole for the purpose of considering general appropriation bills.(9) The motion ordinarily designates the particular bill to be considered.

It should be emphasized that the right of the Committee on Appropriations to report at any time is confined strictly to general appropriation bills, and does not include appropriations for specific purposes or resolutions extending appropriations. An example of measures not considered "general appropriation bills," and therefore not reported or called up as privileged, is a joint resolution providing continuing appropriations for departments and agencies of government, to provide funds until the regular appropriation bills are enacted.(10) Similarly, a joint resolution providing an appropriation for a single government agency is not a general appropriation bill and is not reported as privileged.(11)

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(5) See Rule XI clause 4(a), *House Rules and Manual* § 726 (1981).

See § 5, supra, for discussion of the privileged status of resolutions reported by the Committee on House Administration that provide for expenditures from the contingent fund of the House.

(6) Rule XXI clause 6 [subsequently clause 7], *House Rules and Manuals* § 848 (1981).

(7) See 108 Cong. Rec. 19237, 87th Cong. 2d Sess., Sept. 12, 1962 (proceedings relating to H.R. 13175).

(8) See Rule XXIII clause 4, *House Rules and Manual* § 869 (1981).

(9) Rule XVI clause 9, *House Rules and Manual* § 802 (1981). Under the rule, the motion to consider general appropriation bills and the motion to consider revenue bills are of equal privilege.

Of course, consideration of nonprivileged appropriation bills may be made in order by unanimous consent. Thus, a joint resolution continuing appropriations for a fiscal year may be called up as if privileged pursuant to a special order entered into by unanimous consent, even where such joint resolution has been reported pursuant to the rule(12) relating to the filing of nonprivileged reports.(13) Similarly, by unanimous consent, the House may make in order the consideration of a resolution providing supplemental appropriations for a single government agency.(14)

All bills that make appropriations—in fact all proceedings touching appropriations of money—require consideration first in Committee of the Whole, and a point of order made pursuant to this rule is good at any time before the consideration of a bill has commenced.(15)

Relative Privilege

§ 6.1 The House having agreed that consideration of a general appropriation bill take priority over all business except conference reports, it was held that such agreement gave a higher privilege to the appropriation bill than to consideration of a resolution disapproving reorganization plans of the President,

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10. See § 8.9, infra.
11. See § 7.4, infra; and 111 Cong. Rec. 9518, 89th Cong. 1st Sess., May 5, 1965.

    The Committee on Appropriations filed as privileged a joint resolution making supplemental appropriations to two diverse departments for the balance of the fiscal year. See *Procedure in the U.S. House of Representatives* Ch. 25 § 1.2 (4th ed.).
12. Rule XIII clause 2, *House Rules and Manual* § 743 (1981).
13. See § 8.8, infra. Joint resolutions continuing appropriations pending enactment of regular annual appropriation measures are, by unanimous consent, generally considered "in the House as in Committee of the Whole," but are sometimes considered in Committee of the Whole to permit more extensive general debate. See 115 Cong. Rec. 31867, 31886, 91st Cong. 1st Sess., Oct. 28, 1969 (H.J. Res. 966).
14. 108 Cong. Rec. 1149, 87th Cong. 2d Sess., Jan. 30, 1962.
15. Rule XXIII clause 3, *House Rules and Manual* § 865 (1981).

business in order under the "21-day rule," and other business.

On May 9, 1950,[16] the following proceedings took place:

Mr. [Clare E.] Hoffman of Michigan: Mr. Speaker, I make the point of order that the House is not proceeding in the regular order because under section 205a of the Reorganization Act, which is Public Law 109 of the Eighty-first Congress, first session, any Member of the House is privileged, and this is a highly privileged motion, to make the motion that the House proceed to the consideration of House Resolution 516.

The gentleman from Michigan being on his feet to present this highly privileged motion, the regular order is that he be recognized for that purpose that the motion be entertained and the question put before the House, and my motion is that the House proceed to the consideration of House Resolution 516.

The Speaker Pro Tempore:[17] That is the resolution disapproving one of the reorganization plans?

Mr. Hoffman of Michigan: That is right, House Resolution 516 disapproving plan No. 12. . . .

Mr. [George H.] Mahon [of Texas]: Mr. Speaker, on April 5, 1960, as shown at page 4835 of the daily Record of that day, the chairman of the Committee on Appropriations, the gentleman from Missouri [Mr. Cannon] asked and received unanimous consent that the appropriation bill should have the right-of-way over other privileged business under the rules until disposition, with the exception of conference reports. Therefore, I believe the regular order would be to proceed with the further consideration of H.R. 7786. . . .

Mr. [John] Taber [of New York]: Under the estabished rules of practice of the House, when a special order like that is granted, like that which was granted at the request of the gentleman from Missouri [Mr. Cannon], if those in charge of the bill do not present on any occasion a motion to go into Committee of the Whole, it is in order for the Speaker to recognize other Members for other items that are in order on the calendar. That does not deprive the holder of that special order of the right, when those items are disposed of, to move that the bill be considered further in Committee of the Whole. . . .

Mr. [Robert F.] Rich [of Pennsylvania]: If the 21 resolutions that were presented to the House by the President, a great many of which have been considered by the Committee on Expenditures in the Executive Departments—of which the chairman is a member, and which have been acted on by that committee—are not presented to the House before the twenty-fourth of this month, they become law. The general appropriation bill does not necessarily have to be passed until the 30th of June, but it is necessary that the 21 orders of the President be brought before the House so they can be acted on by the twenty-fourth of this month, and it seems to me that they ought to take precedence over any other bill. . . .

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16. 96 Cong. Rec. 6720–24, 81st Cong. 2d Sess.

17. John W. McCormack (Mass.).

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, may I be heard on the point of order?

THE SPEAKER PRO TEMPORE: The Chair will hear the gentleman.

MR. RANKIN: I was going to say that if this is of the highest constitutional privilege it comes ahead of the present legislation.

THE SPEAKER PRO TEMPORE: The Chair is prepared to rule.

The gentleman from Michigan makes a point of order, the substance of which is that the motion he desires to make or that someone else should make in relation to the consideration of a disapproving resolution of one of the reorganization plans takes precedence over the appropriation bill insofar as recognition by the Chair is concerned. The gentleman from Michigan raises a very serious question and the Chair feels at this particular time that it is well that he did so.

The question involved is not a constitutional question but one relating to the rules of the House and to the Legislative Reorganization Act of 1949. . . . The Chair calls attention to the language of paragraph (b) of section 201 of title II of the Reorganization Act of 1949 which reads as follows: "with full recognition of the constitutional right of either House to change such rules so far as relating to procedure in such House at any time in the same manner and to the same extent as in the case of any other rule of such House." . . .

On April 5, the gentleman from Missouri [Mr. Cannon], chairman of the Committee on Appropriations, submitted a unanimous-consent request to the House, which was granted, which has the force of a rule, and which relates to the rules of the House governing the consideration of the omnibus appropriation bill while it is before the House and, of course, incidentally affecting other legislation. The consent request submitted by the gentleman from Missouri was "that the general appropriation bill for the fiscal year 1951 have right-of-way over all other privileged business under the rules until disposition, with the exception of conference reports."

That request was granted by unanimous consent. On the next day the gentleman from Missouri [Mr. Cannon], in correcting and interpreting the consent request granted on April 5, submitted a further unanimous-consent request.

The daily Record shows, on page 4976, April 6, that the gentleman from Missouri [Mr. Cannon] said:

> Mr. Speaker, on page 4835 of the daily Record of yesterday, the first column carrying the special order made by the House last night reads that the general appropriation bill shall be a special order privileged above all other business of the House under the rule until disposition. The order made was until final disposition. I ask unanimous consent that the Record and Journal be corrected to conform with the proceedings on the floor of the House yesterday.

The Record further shows that the Speaker put the request and there was no objection.

MR. RANKIN: Mr. Speaker, a parliamentary inquiry. . . .

We for the first time this year have all the appropriations in one bill. Now, if they drag out consideration under the 5-minute rule beyond the 24th, would that not shut the Congress off entirely from voting on any of these recommendations? So we do have a constitutional right to consider these propositions without having them smothered in this way.

The Speaker Pro Tempore: The Chair will state that the House always has a constitutional right and power to refuse to go into the Committee of the Whole on any motion made by any Member, so that the House is capable of carrying out its will, whatever may be the will of the majority of the House.

Continuing, the Chair will state that in the opinion of the present occupant, in view of the unanimous-consent request made by the gentleman from Missouri and granted by the House, if any member of the Appropriations Committee moves that the House resolve itself into the Committee of the Whole on the State of the Union to consider the appropriation bill, that motion has preference over any other preferential motion. It is a matter that the House decides when the motion is made as to what it wants to do and it has an opportunity when that motion is made to carry out its will.

Mr. [Arthur L.] Miller of Nebraska: Mr. Speaker, a parliamentary inquiry. . . .

I understood the statement of the gentleman from Missouri on April 6 was that the appropriation bill would take precedence over all legislation and special orders until entirely disposed of. Does that include conference reports?

The Speaker Pro Tempore: A conference report is in a privileged status in any event.

Mr. Taber: They were specifically exempted.

The Speaker Pro Tempore: They were specifically exempted. In relation to the observation made by the gentleman from Michigan [Mr. Hoffman] that because other business has been brought up and that therefore constitutes a violation of the unanimous-consent request, the Chair, recognizing the logic of the argument, disagrees with it because that action was done through the sufference of the Appropriations Committee and, in the opinion of the Chair, does not constitute a violation in any way; therefore does not obviate the meaning and effect of the unanimous-consent request heretofore entered into, and which the Chair has referred to.

For the reasons stated, the Chair overrules the point of order. . . .

Mr. [Herman P.] Eberharter [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Eberharter: I believe I am correct, Mr. Speaker, in stating tht since the unanimous-consent request of the gentleman from Missouri [Mr. Cannon] was granted, that the House took up a measure under the new 21-day rule. I would like to know, Mr. Speaker, whether or not that was taken up because of its high privilege or whether it was taken up because of the sufferance of the chairman of the Committee on Appropriations, the gentleman from Missouri [Mr. Cannon].

The Speaker Pro Tempore: The present occupant of the Chair, of course, is unable to look into the mind of the Speaker who was presiding at the time. But from the knowledge that the Chair has, which, of course, is rather close, it was because the chairman of the Committee on Appropriations permitted it to be done through sufferance. In other words, if the chairman of the Committee on Appropriations had insisted on going into the Committee of the Whole House on the State of the Union, and if the present occupant of the chair had been presiding, there is nothing else that could have been done under the unanimous-consent request, in the Chair's opinion, but to recognize the motion.

MR. EBERHARTER: A further parliamentary inquiry, Mr. Speaker. . . .

As I understand the unanimous-consent request of the gentleman from Missouri, it was that the appropriation bill would take preference over any other matters having a high privilege. My understanding of the new 21-day rule is that that is a matter of the highest privilege, and therefore I am wondering whether the same rule applies.

THE SPEAKER PRO TEMPORE: The gentleman is correct, but that rule can be changed just like any other rule of the House can be changed. . . .

The unanimous-consent request . . . appears in the Record of April 6, that the general appropriation bill shall be a special order privileged above all other business of the House under the rule until disposition. The order made was "until final disposition."

House Determines Question of Consideration

§ 6.2 An automatic roll call was had on the motion to go into the Committee of the Whole to consider an appropriation bill after a motion to adjourn was rejected.

On Feb. 14, 1946,(18) a Member addressed Speaker pro tempore John J. Sparkman, of Alabama, as follows, and proceedings ensued as indicated below:

MR. [LOUIS T.] LUDLOW [of Indiana]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5452) making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1947, and for other purposes.

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from Indiana.

The question was taken; and on a division (demanded by Mr. Cochran) there were—ayes 103, no 1.

MR. [JOHN J.] COCHRAN [of Missouri]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE: The Chair will count. [Afrer counting.] One hundred and seventy-four Members present; not a quorum.

MR. [COMPTON I.] WHITE [of Idaho]: Mr. Speaker, I move that the House do now adjourn.

The question was taken; and on a division (demanded by Mr. White) there were—ayes 31, noes 103.

So the motion was rejected.

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18. 92 CONG. REC. 1324, 79th Cong. 2d Sess.

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from Indiana [Mr. Ludlow].

The Doorkeeper will close the doors, the Sergeant-at-Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 243, nays 16, not voting 171.

§ 7. Nonprivileged Appropriations—"Continuing" Appropriations

The right of the Committee on Appropriations to report at any time is confined strictly to general appropriation bills.(19) This section discusses the consideration of appropriations not falling within the category of general appropriation bills. For example, joint resolutions continuing appropriations pending enactment of general appropriation bills for the ensuing fiscal year are not "general" appropriation bills and therefore are not reported or called up as privileged.(20) Similarly, supplemental appropriations for a single agency or department of government do not comprise a "general" appropriation bill, though bills making supplemental appropriations for diverse agencies are considered general appropriation bills.(1)

Use of Continuing Appropriations

§ 7.1 Where appropriations for certain operations of the Federal Government have remained unprovided for at the beginning of a fiscal year, through the failure of enactment of the supply bills customarily providing for such operations, a bill to extend appropriations for a limited time period for the same operations as those previously provided for, and under the same conditions, restrictions, and limitations has been considered by unanimous consent.

On June 30, 1937,(2) the following actions took place in the House prior to passage of H.R. 7726:

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19. See the discussion at the beginning of § 6, supra; and the precedents in this section.

20. See *Procedure in the U.S. House of Representatives* Ch. 25 § 2.2 (4th ed.). See also 8 Cannon's Precedents §§ 2282, et seq. In 1981, rule XI clause 4, was amended to allow continuing appropriation bills to be reported as privileged after September 15 (H. Res. 5, 97th Cong.). Precedents arrising under this new rule will appear in later volumes.

1. See § 7.4, infra.

2. 81 CONG. REC. 6611, 6612, 75th Cong. 1st Sess.

MR. [CLARENCE] CANNON of Missouri: Mr. Speaker, I call up . . . H.R. 7726 . . . and ask unanimous consent that the bill may be considered in the House as in Committee of the Whole.

The Clerk read the title of the bill.

MR. [JOHN] TABER [of New York]: Mr. Speaker, reserving the right to object, as I understand it, the Senate has adjourned until tomorrow, so that it is absolutely impossible to have all the appropriation bills passed before the 1st of July. I have never known of this kind of a situation arising before.

THE SPEAKER:(3) Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read the bill, as follows:

> *Be it enacted, etc.,* That for defraying during the first half of the month of July 1937 all expenses of the necessary operations of the Federal Government, which, on July 1, 1937, remain unprovided with appropriations through the failure of enactment on or before such date of the supply bills customarily providing for such operations, there are hereby extended for and during such period all appropriations available for obligation for such expenses during the fiscal year ending June 30, 1937, in the same detail and under the same conditions, restrictions, and limitations as such appropriations were provided for on account of such fiscal year. . . .

MR. CANNON of Missouri: Mr. Speaker, the fiscal year ends at midnight tonight, and all departments for which supply bills have not been enacted by that time are without authority to operate. They can spend no money; they cannot enter into contracts; they cannot employ assistants, rent quarters, buy supplies, or legally transact business of any character.

All of the supply bills have been enacted with the exception of two War Department bills and the Interior bill.

It is our hope that they will be ready, in the next day or two, but in the meantime, in order to provide for the maintenance of the War Department and the Interior Department, it is necessary to pass a continuing resolution.

This is the usual bill, prepared in the regular form, and has been submitted to, and approved by, the Comptroller and the Director of the Budget.

Continuing Appropriations Not Privileged

§ 7.2 A joint resolution providing continuing appropriations for departments and agencies of government, to provide funds until the regular appropriation bills are enacted, is not a "general appropriation bill," and is not reported as privileged.

Whereas general appropriation bills are normally called up as privileged, consideration of joint resolutions continuing appropriations is usually made in order by unanimous consent, since such resolutions are not reported as privileged. The following proceedings(4) are illustrative of the

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3. William B. Bankhead (Ala.).

4. See 113 CONG. REC. 26370, 90th Cong. 1st Sess., Sept. 21, 1967. See also 8 Cannon's Precedents §§ 2282 et seq.

manner in which bills providing for continuing appropriations for departments or agencies of government are made in order for consideration:

Mr. [George H.] Mahon [of Texas]: Mr. Speaker, I ask unanimous consent that it may be in order on Wednesday, September 27, or any day thereafter, for the House to consider a joint resolution making continuing appropriations.

The Speaker:[5] Is there objection to the request of the gentleman from Texas?

Mr. [Frank T.] Bow [of Ohio]: Mr. Speaker, reserving the right to object, I wish to address a parliamentary inquiry to the Chair.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. Bow: Mr. Speaker, the parliamentary inquiry is this: Is a continuing resolution subject to amendment when it is brought onto the floor of the House, if the amendment is germane?

The Speaker: The Chair will state that any germane amendment will be in order. It would have to be a germane amendment:

Mr. Bow: I thank the Speaker, and I withdraw my reservation of objection.

The Speaker: Is there objection to the request of the gentleman from Texas?

Mr. [H. R.] Gross [of Iowa]: Mr. Speaker, further reserving the right to object, I would assume the Speaker could add to that the statement: "If the gentleman is recognized for the purpose of offering an amendment."

Mr. Speaker, as a parliamentary inquiry is that not correct? . . .

The Speaker: The Chair will state that the question answers itself. The answer would be yes, subject to the right of recognition, it is a question within the discretion of the Speaker. . . .

Mr. Mahon: Mr. Speaker, this is the third continuing resolution to be considered by the House this year.

I would also say in this case, as in former cases, that the continuing resolution would be considered in the House under the 5-minute rule, and I assume any relevant amendment could be offered. . . .

Mr. Gross: . . . I assume the continuing resolution is for a month or is it for a longer period?

Mr. Mahon: It would probably be for 1 month. The committee meets next week to consider the matter. We are pushing to get our bills through, but there are three appropriation bills which we have not been able to report. One of them is military construction; another is foreign assistance; both of these are awaiting authorization; another is the final supplemental which will include the poverty program for which authorization legislation has not been considered. There is other legislation to be worked on before the supplemental appropriation bill can be reported. . . .

Mr. Gross: Mr. Speaker, in view of the fact that the gentleman says the 5-minute rule will prevail and that any germane amendments will be in order to the continuing resolution, I withdraw my reservation of objection.

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5. John W. McCormack (Mass.).

THE SPEAKER: Is there objection to the request of the gentleman from Texas [Mr. Mahon]?

There was no objection.

Appropriation for Specific Purpose

§ 7.3 A joint resolution making an appropriation to a department for a specific purpose is not a "general" appropriation bill within the meaning of Rule XI clause 22 [now clause 4(a)] and is therefore not privileged for consideration when reported by the Committee on Appropriations. For this reason the Committee on Rules may provide for the immediate consideration of a special bill reported from the Committee on Appropriations.

On Aug. 4, 1971,(6) the following proceedings took place in the House:

MR. [B. F.] SISK [of California]: Mr. Speaker, by direction of the Committee on Rules, I call up [House Resolution 577] and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 577

> *Resolved,* That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 833) making an appropriation for the Department of Labor for the fiscal year 1972, and for other purposes. . . .

THE SPEAKER:(7) The gentleman from California (Mr. Sisk) is recognized for 1 hour.

MR. SISK: . . . Mr. Speaker, House Resolution 577 provides an open rule with 1 hour of debate on House Joint Resolution 833, which implements the emergency assistance Employment Act of 1971.

House Joint Resolution 833, being for a single purpose, is not regarded as a general appropriation bill. For this reason it was necessary to grant a rule providing for its consideration.

Supplemental Appropriations

§ 7.4 A joint resolution making a supplemental appropriation for a single department of the government is not a "general appropriation bill," and not reported as privileged, and is therefore brought up for consideration in a different manner.

On Jan. 30, 1962,(8) a joint resolution was made in order by unanimous consent, as follows:

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I ask unanimous consent that a joint resolution providing appropriations for the Veterans' Administration may be in order for consideration tomorrow.

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6. 117 CONG. REC. 29384, 92d Cong. 1st Sess.

7. Carl Albert (Okla.).

8. 108 CONG. REC. 1149, 87th Cong. 2d Sess.

THE SPEAKER:[9] Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

On the next day,[10] proceedings were as indicated below:

MR. [ALBERT] THOMAS [of Texas]: Mr. Speaker, in accordance with the unanimous-consent agreement of yesterday, I call up the joint resolution (H.J. Res. 612) making supplemental appropriations for the Veterans' Administration for the fiscal year ending June 30, 1962, and for other purposes, and ask unanimous consent that it be considered in the House as in Committee of the Whole.

The Clerk read the title of the joint resolution.

THE SPEAKER: Is there objection to the request of the gentleman from Texas?

The reference of the joint resolution to the Union Calendar was carried in the Record as follows:

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

MR. THOMAS: Committee on Appropriations. House Joint Resolution 612. Joint resolution making supplemental appropriations for the Veterans' Administration for the fiscal year ending June 30, 1962, and for other purposes; without amendment (Rept. No. 1294). Referred to the Committee of the Whole House on the State of the Union.[11]

Requests for Supplemental Appropriations

§ 7.5 The House has given unanimous consent to make in order "tomorrow, or on a subsequent day this week," consideration of a joint resolution providing supplemental appropriations for the Department of Defense, pursuant to a message from the President.

On May 4, 1965,[12] the following proceedings occurred in the House:

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I ask unanimous consent that it may be in order tomorrow, or on a subsequent day this week, to consider a House joint resolution making a supplemental appropriation for the Department of Defense.

THE SPEAKER:[13] Is there objection to the request of the gentleman from Texas?

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[9] John W. McCormack (Mass.).

[10] 108 CONG. REC. 1352, 1385, 87th Cong. 2d Sess, Jan. 31, 1962.

[11] Note: Proposals for supplemental appropriations, normally requested by a communication from the President (31 USC § 14) are sometimes requested by message. The usual practice is for the President to transmit letters requesting such appropriations to the Speaker, who refers them to the Committee on Appropriations and orders them printed.

[12] 111 CONG. REC. 9390, 89th Cong. 1st Sess.

[13] John W. McCormack (Mass.).

Mr. [Melvin R.] Laird [of Wisconsin]: Mr. Speaker, reserving the right to object, it is my understanding that the message from the President of the United States which has been just submitted will satisfy the Budget and Accounting Act as far as a budget estimate is concerned.

Mr. Mahon: Mr. Speaker, if the gentleman will yield, that is certainly my opinion, and I am sure the gentleman is correct. This is a request for $700 million by the President. It follows one of the procedures used by the Executive in submitting budget estimates and I consider this, and I am sure the gentleman does, a budget request from the President.

Mr. Laird: I would like to state to the gentleman from Texas [Mr. Mahon] that it was my understanding yesterday that before we considered this we would have a budget estimate. I wholeheartedly support the principle of following the regular procedure in seeing that these funds are appropriated, and if this satisfies the Budget and Accounting Act, I certainly would have no objection to its being considered either tomorrow or the next day.

Mr. Speaker, I withdraw my reservation of objection.

Bill Reducing Appropriations

§ 7.6 A bill reported from the Committee on Appropriations reducing certain appropriations and contract authorizations available for fiscal 1946 was held not to be a general appropriation bill and a germane amendment rescinding appropriations was permitted.

On Oct. 19, 1945,(14) a bill(15) as described above was under consideration. The bill contained a paragraph appropriating money for grants to states for unemployment compensation benefits and related expenses. During consideration of the bill, an amendment was offered, and a point of order made against the amendment. During the ensuing debate on a point of order, a question arose as to the nature of the bill. The proceedings were as follows:

The Clerk read as follows: . . .

SOCIAL SECURITY BOARD

There is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1946, for grants to States for administration of unemployment compensation and employment service facilities operated in conjunction therewith, as authorized in title III of the Social Security Act, approved August 14, 1935, as amended, $30,000,000, which shall be in addition to the amounts appropriated for such purposes in title II of the Labor-Federal Security Appropriation Act, 1946.

Mr. [John W.] McCormack [of Massachusetts]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCormack: On page 8, line 10, after the period, strike out lines 11 through 20 and insert the following:

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14. 91 Cong. Rec. 9851, 79th Cong. 1st Sess.
15. H.R. 4407.

"On July 1, 1946, any unobligated balance of the appropriation made in the first paragraph under the heading 'Employment Office Facilities and Services' in title VII of the Labor-Federal Appropriation Act, 1946, shall be carried to the surplus fund and covered into the Treasury, and after June 30, 1946, appropriations shall be made only for grants to States for administration of unemployment compensation and employment service facilities as authorized in title III of the Social Security Act, approved August 11, 1935, as amended, and in the act of June 6, 1933, as amended, known as the Wagner-Peyser Act.". . .

MR. [EVERETT M.]. DIRKSEN [of Illinois]: Mr. Chairman, I make the point of order that the amendment is not germane, that it is legislative in character.

THE CHAIRMAN:[16] In the opinion of the Chair, the amendment is obviously germane. It relates to the same subject as specified in the bill.

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, I make an additional point of order. If I understood the amendment correctly, it makes an appropriation. Has this bill not been regarded as a legislative bill?

THE CHAIRMAN: The paragraph under consideration makes an appropriation of $30,000,000.

MR. [JOHN] TABER [of New York]: Mr. Chairman, this, to my mind, is the situation: The amendment is a rescission. The paragraph which is made in order under the rule is an appropriation; therefore the amendment is not in order.

THE CHAIRMAN: In the opinion of the Chair, the amendment offered is germane to the paragraph which deals with appropriations for this purpose. The amendment offered also deals with appropriations for the same purpose. In the opinion of the Chair the amendment offered by the gentleman from Massachusetts is clearly germane and the Chair overrules the point of order. . . .

MR. CASE of South Dakota: Has the Chair ruled at any time whether this is an appropriation bill or a legislative bill?

THE CHAIRMAN: The Chair does not have to rule upon that question. This is a question with reference to rescission of funds and incidentally involves appropriations, as does this particular paragraph. The Chair, in a bill of this character, which is not a general appropriation bill, is simply called upon to pass upon the question of germaneness. . . .

MR. CASE of South Dakota: I do not question the germaneness, but I heard the bill referred to as a legislative bill, and if it is interpreted as a legislative bill, the amendment making an appropriation, of course, would not be in order.

THE CHAIRMAN: This certainly is not a general appropriation bill but a bill with reference to rescission of appropriations. The only question which could occur from a parliamentary standpoint would be the question of germaneness. . . . The Chair overruled the point of order. . . .

MR. [JOHN E.] RANKIN [of Mississippi]: As a matter of fact, the rule waiving points of order would apply to any point of order that an amendment was legislation on an appropriation bill.

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[16] Fritz G. Lanham (Tex.).

THE CHAIRMAN: The Chair is not at all passing upon that question. . . .

MR. CASE of South Dakota: Mr. Chairman, since that question has been raised, may we have a ruling on the question whether or not the rule waives points of order as against amendments or merely waives points of order against the contents of the bill?

THE CHAIRMAN: The Chair is called upon to rule only upon the point of order made and cannot rule upon other points of order not pertinent to the pending amendment. The Chair has overruled the point of order.(17)

§ 8. Consideration Made in Order by Special Rule or Unanimous Consent

Special Orders

§ 8.1 The form of a modified closed rule reported from the Committee on Rules making in order consideration of a joint resolution providing temporary appropriations, fixing debate, and limiting amendments to those offered by direction of the Committee on Appropriations.

On June 28, 1951,(18) a resolution was called up as follows:

MR. [ADOLPH J.] SABATH [of Illinois]: Mr. Speaker, I call up House Resolution 287 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

> *Resolved,* That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 277) making temporary appropriations for the fiscal year 1952, and for other purposes. That after general debate, which shall be confined to the joint resolution and continue not to exceed 3 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, the joint resolution shall be read for amendment. No amendment shall be in order to said joint resolution except amendments offered by the direction of the Committee on Appropriations. At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution to the House with such amendments as may have been adopted, and the previous questions shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

§ 8.2 The form of a resolution providing for consideration of a general appropriation bill and

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(17) *Parliamentarian's Note:* A special rule (see 91 CONG. REC. 9813, 79th Cong. 1st Sess., Oct. 18, 1945) had provided that the above bill be considered for amendment by appropriation titles. Appropriation bills are, of course, generally read for amendment by paragraphs. See §§ 11.8–11.10, infra.

(18) 97 CONG. REC. 7408, 82d Cong. 1st Sess.

waiving points of order against the bill or any of the provisions contained therein, excepting a specific paragraph, is set out below.

On Apr. 7, 1949,(1) the following resolution was read:

> *Resolved,* That upon the adoption of this resolution, notwithstanding any rule of the House to the contrary, it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4046) making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1949, and for other purposes, and all points of order against the bill or any of the provisions contained therein are hereby waived excepting the provision appearing on page 19, lines 18 to 21, inclusive, in the paragraph under the heading "General Provisions." That after general debate, which shall be confined to the bill and continue not to exceed 2 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Deficiency Appropriations

§ 8.3 An illustrative resolution, making in order consideration of the first deficiency appropriation bill of 1949, notwithstanding the requirement that committee reports and hearings on appropriation bills be made available three calendar days before consideration, is set out below.

On Feb. 15, 1949,(2) a resolution was called up as follows:

Mr. [Adoplh J.] Sabath [of Illinois]: Mr. Speaker, I call up House Resolution 99 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

> *Resolved,* That, notwithstanding any rule of the House to the contrary, it shall be in order on Tuesday, February 15, 1949, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 2632) making appropriations to supply urgent deficiencies for the fiscal year 1949, and for other purposes, and all points of

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1. 95 Cong. Rec. 4113, 81st Cong. 1st Sess.

2. 95 Cong. Rec. 1214, 81st Cong. 1st Sess. Under § 139(a) of the Legislative Reorganization Act of 1946, committee reports and hearings were required to be made available three calendar days before general appropriation bills were to be considered. See Rule XXI clause 7, *House Rules and Manual* § 848 (1981).

> order against the bill or any of the provisions contained therein are heareby waived. That after general debate which shall be confined to the bill and continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

§ 8.4 Pursuant to a special order previously agreed to, a joint resolution continuing appropriations has been called up as if privileged and considered in the House as in the Committee of the Whole.

On June 24, 1969,(3) the following proceedings took place in the House:

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, pursuant to the order of the House of June 19, 1969, I call up House Joint Resolution 790, making continuing appropriations for the fiscal year 1970 and for other purposes, and ask unanimous consent that it be considered in the House as in the Committee of the Whole.

The Clerk read the title of the joint resolution.

THE SPEAKER:(4) Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the joint resolution.

Special Order Rejected

§ 8.5 The House has rejected a resolution providing for consideration of a joint resolution continuing appropriations.

On Oct. 1, 1964,(5) a Member called up a resolution as follows:

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 892, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

> *Resolved*, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 1183), making continuing appropriations for the fiscal year 1965, and for other purposes. That after general debate, which shall be confined to the joint resolution and continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, the joint resolution shall be read for amendment. At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution

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3. 115 CONG. REC. 17015-17, 91st Cong. 1st Sess. See also 109 CONG. REC. 20361, 20362, 88th Cong. 1st Sess., Oct. 28, 1963.

4. John W. McCormack (Mass.).

5. 110 CONG. REC. 23361, 23363, 23364, 88th Cong. 2d Sess.

> to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit. . . .

MR. SMITH of Virginia: Mr. Speaker, I move the previous question.

The previous question was ordered.

THE SPEAKER PRO TEMPORE:(6) The question is on the resolution.

MR. [CLARENCE J.] BROWN of Ohio: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 160, nays 193, not voting 78. . . .

So the resolution was rejected.(7)

Debate on Special Orders

§ 8.6 Rejection of the previous question on a special rule was sought for purposes of opening the special rule to amendment and further debate.

On Oct. 3, 1967,(8) a simple resolution was called up providing for consideration of a joint resolution continuing certain appropriations. It was desired by some Members to vote down the previous question on the special rule, thereby opening it for amendment and debate.(9) The following proceedings took place during consideration of the special rule:

> MR. [WILLIAM H.] COLMER [of Mississippi]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 938 and ask for its immediate consideration.
>
> The Clerk read the resolution, as follows:
>
> H. RES. 938
>
> *Resolved,* That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 853) making continuing appropriations for the fiscal year 1968, and for other purposes. After general debate, which shall be confined to the joint resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, the joint resolution shall be read for amendment. At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution to the House with such amendment as may have been adopted, and the previous question shall be considered as or-

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6. Carl Albert (Okla.).

7. Note: A prior continuing resolution had expired, and the chairman of the Committee on Appropriations had requested a special rule from the Committee on Rules for consideration of a resolution to extend the continuing resolution.

8. 113 CONG. REC. 27644, 27652, 90th Cong. 1st Sess.

9. For discussion of special rules and their consideration, generally, see Ch. 21, supra.

> dered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

THE SPEAKER:(10) The gentleman from Mississippi is recognized. . . .

MR. COLMER: . . . Mr. Speaker, I move the previous question.

THE SPEAKER: The question is on ordering the previous question.

MR. [H. ALLEN] SMITH of California: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

MR. GERALD R. FORD [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. GERALD R. FORD: If the previous question is rejected, then the rule will be open to amendment and there will be debate on any amendments to the rule. Is that correct?

THE SPEAKER: Of course, the gentleman's question answers itself. But the answer, specifically and directly, is "Yes."

MR. GERALD R. FORD: I thank the Speaker.

The question was taken; and there were—yeas 213, nays 205, not voting 14. . . .

So the previous question was ordered. . . .

THE SPEAKER: The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Consideration by Unanimous Consent

§ 8.7 Pursuant to unanimous consent previously obtained, a joint resolution continuing appropriations (or making a special supplemental appropriation) may be called up as if privileged and considered in the House as in the Committee of the Whole.

On Aug. 18, 1964,(11) the following proceedings occurred in the House:

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, pursuant to the unanimous-consent agreement obtained yesterday, I call up the joint resolution (H.J. Res. 1160) making continuing appropriations for the fiscal year 1965, and for other purposes, and ask unanimous consent that it be considered in the House as in the Committee of the Whole.

The Clerk read the title of the joint resolution.

The Clerk read the joint resolution, as follows:

> *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That clause (c) of section 102 of the joint resolution of June 29, 1964 (Public Law 88-325), is hereby amended by striking out "August 31, 1964" and inserting in lieu thereof "September 30, 1964".

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10. John W. McCormack (Mass.).

11. 110 CONG. REC. 20055, 88th Cong. 2d Sess.

See also 116 CONG. REC. 21239, 91st Cong. 2d Sess., June 24, 1970 [H.J. Res. 1264]; 115 CONG. REC. 17015-17, 91st Cong. 1st. Sess., June 24, 1969 [H.J. Res. 790]; 111 CONG. REC. 26881, 89th Cong. 1st Sess., Oct. 13, 1965; and 111 CONG. REC. 25342, 89th Cong. 1st Sess., Sept. 28, 1965.

The Speaker:[12] Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. Mahon: Mr. Speaker, I move to strike out the last word.

On Mar. 25, 1969,[13] the following proceedings occurred in the House with respect to a joint resolution making a supplemental appropriation:

Mr. Mahon: Mr. Speaker, pursuant to the unanimous-consent agreement on yesterday, I call up House Joint Resolution 584, making a supplemental appropriation for the fiscal year ending June 30, 1969, and for other purposes, and ask unanimous consent that the joint resolution be considered in the House as in the Committee of the Whole.

The Clerk read the title of the joint resolution.

The Speaker: Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 584

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is appropriated out of any money in the Treasury not otherwise appropriated, to supply a supplemental appropriation for the fiscal year ending June 30, 1969, and for other purposes; namely:

Department of Agriculture

Commodity Credit Corporation

For partial restoration of capital impairment of the Commodity Credit Corporation for costs heretofore incurred, $1,000,000,000.

§ 8.8 Parliamentarian's Note: A joint resolution continuing appropriations for a fiscal year may be called up as if privileged pursuant to a previous order entered into by unanimous consent, although it had been reported pursuant to Rule XIII clause 2 as nonprivileged by filing in the hopper.

Procedures like those described above took place on June 28, 1965,[14] with respect to a joint resolution making continuing appropriations for fiscal 1966:

Mr. [George H.] Mahon [of Texas]: Mr. Speaker, I call up House Joint Resolution 553 making continuing appropriations for the fiscal year 1966, and for other purposes, and I ask unanimous consent that it be considered in the House as in the Committee of the Whole House on the State of the Union.

The Clerk read the House joint resolution as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums is appropriated out of any money in the Treasury not otherwise appropri-

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[12] John W. McCormack (Mass.).

[13] 115 Cong. Rec. 7378, 7383, 91st Cong. 1st Sess.

[14] See 111 Cong. Rec. 14846–50, 89th Cong. 1st Sess.

> ated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1966, namely: . . .

THE SPEAKER:(15) Is there objection to the request of the gentleman from Texas?

There was no objection. . . .

MR. [CHARLES R.] JONAS [of North Carolina]: Mr. Speaker, I move to strike out the last word. . . .

THE SPEAKER: The question is on the joint resolution.

The joint resolution was agreed to.

A motion to reconsider was laid on the table.

Consideration on Specified Day

§ 8.9 A joint resolution providing continuing appropriations for departments and agencies of government, to provide funds until the regular appropriation bills are enacted, is not a "general appropriation bill," and not called up as privileged, but a unanimous-consent request may be granted that it be in order for the House to consider such a resolution on a specified day.

On Sept. 21, 1967,(16) Mr. George H. Mahon, of Texas, made the following unanimous-consent request, which was granted:

> Mr. Speaker, I ask unanimous consent that it may be in order on Wednesday, September 27, or any day thereafter, for the House to consider a joint resolution making continuing appropriations.

§ 8.10 Unanimous consent of the House has been obtained on one day to make in order on the following day consideration of a joint resolution providing for continuing appropriations.

On July 25, 1962,(1) the following unanimous-consent request was made and agreed to:

> MR. [CLARENCE] CANNON [of Missouri]: Mr. Speaker, I ask unanimous consent that it may be in order tomorrow to take up for consideration a House joint resolution to provide continuing appropriations for the month of August.
>
> THE SPEAKER:(2) Is there objection to the request of the gentleman from Missouri?
>
> There was no objection.

§ 8.11 Consideration of a bill making appropriations for a single agency of government for the fiscal year was, by unanimous consent, made in order on a designated day, or any day thereafter.

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15. John W. McCormack (Mass.).
16. 113 CONG. REC. 26370, 90th Cong. 1st Sess.

1. 108 CONG. REC. 14731, 87th Cong. 2d Sess.
2. John W. McCormack (Mass.).

On Aug. 15, 1967,(3) the following exchange took place:

Mr. [Joseph L.] Evins of Tennessee: Mr. Speaker, I ask unanimous consent that it may be in order on Tuesday next or any day thereafter for the House to consider the National Aeronautics and Space Administration appropriation bill for 1968.

The Speaker Pro Tempore:(4) Is there objection to the request of the gentleman from Tennessee?

There was no objection.

§ 8.12 A unanimous-consent request has been granted making in order, on a specified day or on any day subsequent thereto, consideration of a joint resolution continuing appropriations.

On Aug. 21, 1967,(5) the following proceedings took place:

Mr. [George H.] Mahon [of Texas]: Mr. Speaker, I ask unanimous consent that it be in order on Thursday, August 24, or any subsequent day, to consider a joint resolution making continuing appropriations for the month of September.

The Speaker:(6) Is there objection to the request of the gentleman from Texas?

There was no objection.

§ 8.13 Consideration of a supplemental appropriation bill, providing funds for a single government agency, was made in order on a designated day by unanimous consent of the House.

On Mar. 24, 1969,(7) a unanimous-consent request was made as follows:

Mr. [George H.] Mahon [of Texas]: Mr. Speaker, I ask unanimous consent that it may be in order on Tuesday, March 25, for the House to consider a House joint resolution making appropriations for the Commodity Credit Corporation.

The Speaker:(8) Is there objection to the request of the gentleman from Texas? . . .

There was no objection.

Special Order Superseded

§ 8.14 Consideration of a supplemental appropriation bill was made in order, by unanimous consent, on a day certain, even though the House had earlier agreed to a special order establishing a different date for taking up the bill.

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3. 113 Cong. Rec. 22678, 90th Cong. 1st Sess.
4. Carl Albert (Okla.).
5. 113 Cong. Rec. 23279, 90th Cong. 1st Sess.
6. John W. McCormack (Mass.).
7. 115 Cong. Rec. 7147, 91st Cong. 1st Sess. See also 109 Cong. Rec. 23971, 88th Cong. 1st Sess., Dec. 10, 1963 (foreign aid appropriation bill).
8. John W. McCormack (Mass.).

On Oct. 11, 1965,(9) the following exchange took place:

Mr. [George H.] Mahon [of Texas]: Mr. Speaker, I ask unanimous consent that it may be in order on Thursday, October 14, to consider the supplemental appropriation bill for 1966.

The Speaker:(10) Is there objection to the request of the gentleman from Texas?

There was no objection.(11)

Reports Not Available for Three Days

§ 8.15 General debate on two general appropriation bills was made in order on a day certain during the following week by unanimous consent, although reports on those bills would not be available for the three days required by the rule.

On June 15, 1972,(12) the following proceedings occurred in the House:

Mr. [George H.] Mahon [of Texas]: Mr. Speaker, I ask unanimous consent that it may be in order in the House on Tuesday next—clause 6 of rule XXI to the contrary notwithstanding—to have general debate only on the bill making appropriations for public works for water and power development, the Atomic Energy Commission, and certain other agencies for the fiscal year ending June 30, 1973, and to have general debate only on the bill making appropriations for the Treasury Department, the Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending June 30, 1973.

The Speaker:(13) Is there objection to the request of the gentleman from Texas?

There was no objection.

Consideration Within Same Week

§ 8.16 The House has given unanimous consent making in order "on any day later this week" consideration of a joint resolution continuing appropriations.

On Aug. 24, 1965,(14) a unanimous-consent request was made and agreed to as follows:

Mr. [George H.] Mahon [of Texas]: Mr. Speaker, I ask unanimous consent that it may be in order on any day later this week to consider a House joint resolution making continuing appropriations for the month of September.

The Speaker:(15) Is there objection to the request of the gentleman from Texas? . . .

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9. 111 Cong. Rec. 26528, 89th Cong. 1st Sess.
10. John W. McCormack (Mass.).
11. Note: The House had, on Oct. 7, agreed to take up this bill on Oct. 15.
12. 118 Cong. Rec. 21150, 92d Cong. 2d Sess. See also 94 Cong. Rec. 2844, 80th Cong. 2d Sess., Mar. 15, 1948 (agriculture appropriations bill).
13. Carl Albert (Okla.).
14. 111 Cong. Rec. 21545, 89th Cong. 1st Sess.
15. John W. McCormack (Mass.).

There was no objection.

§ 8.17 The unanimous consent of the House has been obtained to make it in order to call up at any time during the week a joint resolution providing continuing appropriations for departments and agencies of government where the regular appropriation bills had not been passed for the fiscal year.

On June 22, 1962,(16) the following proceedings took place:

Mr. [Clarence] Cannon [of Missouri]: Mr. Speaker, I ask unanimous consent that it may be in order any time next week to call up a joint resolution to provide continuing appropriations for the various Government departments and agencies for the fiscal year beginning July 1.

The Speaker Pro Tempore:(1) Is there objection to the request of the gentleman from Missouri? . . .

There was no objection.

During Following Week

§ 8.18 The House has given its consent to make in order consideration during the following week of a joint resolution providing for continuing appropriations.

On June 20, 1963,(2) the following exchange took place:

Mr. [Clarence] Cannon [of Missouri]: Mr. Speaker, I ask unanimous consent that it may be in order during the coming week to consider a joint resolution providing continuing appropriations.

The Speaker:(3) Is there objection to the request of the gentleman from Missouri?

Mr. [H. R.] Gross [of Iowa]: Mr. Speaker, reserving the right to object, what is the nature of the continuing resolution?

Mr. Cannon: I will say to the distinguished gentleman from Iowa it is the stereotyped continuing resolution such as has been presented, I am sorry to say, every year for a number of years, due to our failure to get all of the appropriation bills through before the end of the fiscal year. It follows in general the language of every previous continuing resolution.

The Speaker: Is there objection to the request of the gentleman from Missouri?

There was no objection.

Consideration During Current Month

§ 8.19 Consideration of a joint resolution providing continuing appropriations was made in order, by unanimous consent,

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16. 108 Cong. Rec. 11410, 87th Cong. 2d Sess.

1. Carl Albert (Okla.).

2. 109 Cong. Rec. 11236, 88th Cong. 1st Sess. See also 115 Cong. Rec. 16630, 16631, 91st Cong. 1st Sess., June 19, 1969.

3. John W. McCormack (Mass.).

on any day during the current month.

On June 20, 1967,(4) the following proceedings took place in the House:

> Mr. [George H.] Mahon [of Texas]: Mr. Speaker, I ask unanimous consent that it may be in order on Monday, June 26, or any succeeding day in June, to consider a joint resolution making continuing appropriations.
>
> The Speaker:(5) Is there objection to the request of the gentleman from Texas?
>
> There was no objection.

At Any Time

§ 8.20 By unanimous consent, a House joint resolution continuing certain appropriations for a department of the government has been made in order for consideration at any time.

On Oct. 11, 1962,(6) a Member addressed Speaker John W. McCormack, of Massachusetts, as follows, and proceedings ensued as indicated below:

> Mr. [Jamie L.] Whitten [of Mississippi]: Mr. Speaker, by direction of the Committee on Appropriations I submit a report (Rept. No. 2551) on the joint resolution (H.J. Res. 903) making continuing appropriations for the Department of Agriculture and related agencies for the fiscal year ending June 30, 1963, and for other purposes and ask unanimous consent that it may be taken up at any time.
>
> The Speaker: The Clerk will report the joint resolution.
>
> The Clerk read as follows:
>
>> *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That there is appropriated out of any money in the Treasury not otherwise appropriated, and out of applicable corporate and other revenues, receipts, and funds, such amounts as may be necessary for continuing projects or activities which were conducted in the fiscal year 1962 by the Department of Agriculture. . . .
>
> The Speaker: The joint resolution is referred to the Union Calendar and ordered to be printed.
>
> Is there objection to the request of the gentleman from Mississippi [Mr. Whitten] that it be in order to consider the joint resolution at any time? . . .
>
> There was no objection.

Immediate Consideration When Introduced

§ 8.21 A joint resolution providing appropriations for mileage for the Vice President, Senators, Representatives, and for other expenses incident to a special session of Congress, was given immediate consideration.

On Sept. 25, 1939,(7) a Member introduced a resolution as follows,

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4. 113 Cong. Rec. 16420, 90th Cong. 1st Sess.
5. John W. McCormack (Mass.).
6. 108 Cong. Rec. 23206, 23207, 87th Cong. 2d Sess.
7. 85 Cong. Rec. 16, 76th Cong. 2d Sess.

and proceedings were as indicated below:

MR. [EDWARD T.] TAYLOR of Colorado: Mr. Speaker, I send to the desk a joint resolution and ask unanimous consent for its immediate consideration.

The Clerk read the joint resolution, as follows:

HOUSE JOINT RESOLUTION 384

> *Resolved, etc.,* That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the payment of expenses incident to the second session of the Seventy-sixth Congress, namely:
>
> For mileage of the President of the Senate and of Senators, $51,000.
>
> For mileage of Representatives, the Delegate from Hawaii, and the Resident Commissioner from Puerto Rico, and for expenses of the Delegate from Alaska, $171,000.
>
> For the payment of 21 pages for the Senate and 48 pages for the House of Representatives, at $4 per day each, for the period commencing September 21, 1939, and ending with the last day of the month in which the Seventy-sixth Congress adjourns sine die at the second session thereof, so much as may be necessary for each the Senate and House of Representatives.

THE SPEAKER:[8] Is there objection to the request of the gentleman from Colorado?

There was no objection.

§ 9. Waiver of Points of Order—by Resolution

Waiver Agreed to After General Debate

§ 9.1 A resolution waiving points of order against a certain provision in a supplemental appropriation bill was considered and agreed to by the House after general debate on the bill had been concluded and reading for amendment had begun in the Committee of the Whole.

On May 21, 1969,[9] the following proceedings took place:

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 414 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 414

> *Resolved,* That during the consideration of the bill (H.R. 11400) making supplemental appropriations for the fiscal year ending June 30, 1969, and for other purposes, all points of order against title IV of said bill are hereby waived.

MR. COLMER: . . . The language that the rule waives the point of order against is found in title IV of the bill. Title IV of the bill places a ceiling upon the amount of the expenditures that the Chief Executive can make within the fiscal year. Now, that amount is, roughly, $192 billion. . . .

THE SPEAKER PRO TEMPORE:[1] The question is on the resolution.

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[8] William B. Bankhead (Ala.).

[9] 115 CONG. REC. 13246, 13251, 13252, 91st Cong. 1st Sess.

[1] Edmond Edmondson (Okla.).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

MR. [WILLIAM F.] RYAN [of New York]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present. . . .

The question was taken; and there were—yeas 326, nays 53, not voting 54. . . .

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 11400) making supplemental appropriations for the fiscal year ending June 30, 1969, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11400, with Mr. [Chet] Holifield [of California] in the chair.

THE CHAIRMAN: When the Committee rose on yesterday, the Clerk had read through line 7 on page 2 of the bill.

Points of Order Against All Provisions But One

§ 9.2 The form of a resolution waiving all points of order against consideration of an appropriation bill, waiving points of order against the bill or any of the provisions contained therein excepting a specific paragraph is set out below.

On Apr. 7, 1949,(2) the Clerk read the following resolution:

Resolved, That upon the adoption of this resolution, notwithstanding any rule of the House to the contrary, it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4046) making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1949, and for other purposes, and all points of order against the bill or any of the provisions contained therein are hereby waived excepting the provision appearing on page 19, lines 18 to 21, inclusive, in the paragraph under the heading "General Provisions." That after general debate, which shall be confined to the bill and continue not to exceed 2 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Certain Legislative Language Made in Order

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2. 95 CONG. REC. 4113, 81st Cong. 1st Sess.

§ 9.3 The form of a resolution waiving points of order against the independent offices appropriation bill, and making in order a legislative amendment described in general terms in the text of the resolution is set out below.

On June 17, 1947,(3) the following proceedings took place:

MR. [FOREST A.] HARNESS of Indiana: Mr. Speaker, I call up House Resolution 248 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

> *Resolved*, That during the consideration of the bill (H.R. 3839) making appropriations for the Executive Office and sundry independent executive bureaus, boards, commissions, and offices, for the fiscal year ending June 30, 1948, and for other purposes, all points of order against the bill or any provisions contained therein are hereby waived; and it shall also be in order to consider without the intervention of any point of order any amendment to said bill prohibiting the use of the funds appropriated in such bill or any funds heretofore made available, including contract authorizations, for the purchase of any particular site or for the erection of any particular hospital.

Waiver of Three-day Availability Requirement

§ 9.4 The House has considered a resolution on the same day reported making in order consideration of an appropriation bill, notwithstanding the fact that the bill and report have not been available for three calendar days as required by Rule XXI clause 6 (subsequently clause 7) and waiving all points of order against the bill.

On Sept. 19, 1968,(4) a Member addressed Speaker John W. McCormack, of Massachusetts, as follows, and proceedings ensued as indicated below:

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1308 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

> H. RES. 1308
>
> *Resolved*, That upon the adoption of this resolution, notwithstanding any rule of the House to the contrary, it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 19908) making appropriations for Foreign Assistance and related agencies for the fiscal year ending June 30, 1969, and for other purposes, and all points of order against said bill are hereby waived.

THE SPEAKER: The question is, will the House now consider House Resolution 1308?

The question was taken.

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3. 93 CONG. REC. 7166, 80th Cong. 1st Sess.

4. 114 CONG. REC. 27646, 27647, 90th Cong. 2d Sess.

Mr. [Peter H. B.] Frelinghuysen [of New Jersey]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The Speaker: Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 293, nays 58, not voting 80. . . .

So (two-thirds having voted in favor thereof), the House agreed to consider House Resolution 1308. . . .

Mr. Colmer: Mr. Speaker, the House has just voted to consider the resolution which provides for consideration, in turn, of the foreign aid appropriation bill.

Frankly, I do not subscribe to this procedure generally. I do subscribe to this procedure in this particular instance.

This matter was presented to the committee only this morning. The conference report on the authorization bill was adopted only a few hours ago by the House. But it is anticipated that the other body will approve it and that it will go to the White House for the President's signature. . . .

Mr. [H. Allen] Smith of California: . . . [B]y way of a simple review of the matter, the last vote was for two-thirds to consider this particular resolution, House Resolution 1308. Otherwise it would have had to have laid over until tomorrow or next week.

Mr. Speaker, this procedure is as the chairman of the Committee on Rules said, unorthodox and unusual, and insofar as I am concerned I doubt that there will be any other type of piece of legislation that I would agree to this particular procedure being worked upon a bill.

After all, the bill is here and the conference report has been adopted. Further, if we are ever going to adjourn we will have to proceed in this particular manner even though it is a little unusual.

The matter we have under consideration right now is House Resolution 1308 that waives points of order on the foreign assistance bill; namely, H.R. 19908. If this rule is adopted by a majority vote then we can proceed to its consideration with 2 hours of debate, proceed to the consideration of the Foreign Assistance Act for the fiscal year ending June 30, 1969, with the time equally divided.

Waiver of Points of Order Against Bill or Provisions

§ 9.5 The form of a resolution waiving all points of order against a general appropriation bill or any provisions contained therein is set out below.

On June 26, 1945,(5) a resolution was called up, as follows:

Mr. [Joe B.] Bates of Kentucky: Mr. Speaker, I call up House Resolution 301 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

> *Resolved,* That during the consideration of the bill (H.R. 3579)

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5. 91 Cong. Rec. 6766, 79th Cong. 1st Sess.

> making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1945, and for prior fiscal years, to provide supplemental appropriations for the fiscal years ending June 30, 1945, and June 30, 1946, to provide appropriations for the fiscal year ending June 30, 1946, and for other purposes all points of order against the bill or any provisions contained therein are hereby waived.

Specific Paragraph of Supplemental Appropriation Bill Protected

§ 9.6 The form of a resolution waiving points of order against a specific paragraph of a supplemental appropriation bill (language making certain funds that were available for construction also available for purchase of furniture for the new Rayburn Office Building) is set out below.

On Apr. 9, 1963,(6) a Member called up a resolution, as follows:

Mr. [James J.] Delaney [of New York]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 311 and ask for its immediate consideration.

The Clerk read the resolution as follows:

> *Resolved,* That during the consideration of the bill (H.R. 5517) making supplemental appropriations for the fiscal year ending June 30, 1963, and for other purposes, all points of order against the provisions contained in lines 5 through 10, page 22, are hereby waived.

Points of Order Against Committee Amendments

§ 9.7 The form of a resolution waiving points of order against a supplemental appropriation bill or any of the provisions contained therein, and waiving points of order against any amendment offered by direction of the Committee on Appropriations is set out below.

On June 9, 1948,(7) the following resolution was called up:

Mr. [Leo E.] Allen of Illinois: Mr. Speaker, I call up House Resolution 651 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

> *Resolved,* That during the consideration of the bill (H.R. 6829) making supplemental appropriations for the Executive Office and sundry independent executive bureaus, boards, commissions, and offices, for the fiscal year ending June 30, 1949, and for other purposes, all points of order against the bill or any provisions contained therein are hereby waived, and it shall be in order to consider without the intervention of any point of order any amendment offered by direction of the Committee on Appropriations.

Waiver Against One Title of Bill

§ 9.8 The form of a resolution waiving points of order against

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6. 109 Cong. Rec. 6043, 88th Cong. 1st Sess.

7. 94 Cong. Rec. 7603, 80th Cong. 2d Sess. See also 83 Cong. Rec. 6777, 75th Cong. 3d Sess., May 12, 1938.

part of a military establishment appropriation bill is set out below.

On June 4, 1947,(8) a resolution was called up, as follows:

MR. [ROBERT F.] RICH [of Pennsylvania]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 230 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

> *Resolved,* That during the consideration of the bill (H.R. 3678) making appropriations for the Military Establishment for the fiscal year ending June 30, 1948, and for other purposes, all points of order against title II of said bill or any provisions contained therein are hereby waived.

§ 10. General Appropriation Bills Considered by Unanimous Consent

Generally

§ 10.1 Consideration of a supplemental appropriation bill, without the intervention of any point of order against the provisions of the bill, was made in order on the following Tuesday or any day thereafter, by unanimous consent.

On Dec. 6, 1967,(9) the following proceedings took place:

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I ask unanimous consent that it may be in order on Tuesday next or any subsequent day next week to consider a bill making supplemental appropriations for fiscal year 1968 and that all points of order against the bill or any provisions contained therein be considered as waived.

THE SPEAKER:(10) Is there objection to the request of the gentleman from Texas? . . .

MR. GERALD R. FORD [of Michigan]: I am glad that point has just been clarified. As I understand it, the reason for waiving points of order is because the authorization bill for the Office of Economic Opportunity will not have become law through the signature of the President at the time specified? In other words, that is the only reason that the gentleman from Texas [Mr. Mahon] asks to waive all points of order?

MR. MAHON: Mr. Speaker, if the gentleman from Ohio will yield further, the gentleman from Michigan is correct. This is the only reason for the request. There is nothing else that I can envisage in the appropriation bill where a point of order might obtain.

MR. [FRANK T.] BOW [of Ohio]: Mr. Speaker, I withdraw my reservation of objection.

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(8) 93 CONG. REC. 6346, 80th Cong. 1st Sess.

(9) 113 CONG. REC. 35164, 35165, 90th Cong. 1st Sess. See also the unanimous-consent requests in § 8, supra.

(10) John W. McCormack (Mass.).

The Speaker: Is there objection to the request of the gentleman from Texas [Mr. Mahon].

There was no objection.

Three-day Availability Requirement

§ 10.2 Consideration of a supplemental appropriation bill was made in order on the following Tuesday or any day thereafter, by unanimous consent, despite the fact that the bill and report would not be available for three calendar days as required by Rule XXI clause 6 (now clause 7).

On Feb. 15, 1968,(11) a Member addressed Speaker John W. McCormack, of Massachusetts, as follows, and proceedings ensued as indicated below:

Mr. [George H.] Mahon [of Texas]: Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight Monday, February 19, to file a privileged report on the urgent supplemental appropriation bill for the fiscal year 1968.

The Speaker: Is there objection to the request of the gentleman from Texas? . . .

Mr. Mahon: Mr. Speaker, I ask unanimous consent to revise and extend my remarks during the colloquy just held to make it in order for the House to consider the urgent supplemental appropriations bill for 1968 on Tuesday, February 20, or any day subsequent thereto. . . .

The Speaker: Is there objection to the request of the gentleman from Texas?

There was no objection.

§ 10.3 By unanimous consent, the rule [Rule XXI clause 6 (now clause 7)] prohibiting consideration of general appropriation bills until printed committee hearings and the committee report have been available for three days was waived.

On Sept. 12, 1962,(12) the following proceedings took place:

Mr. [Otto E.] Passman [of Louisiana]: Mr. Speaker, I take this time in order to announce that it is our intention to report the foreign aid appropriation bill for 1963 to the House on Tuesday, September 18. I therefore now ask unanimous consent that the 3-day rule be waived and that the bill be considered in the House on Thursday, September 20.

The Speaker:(13) Is there objection to the request of the gentleman from Louisiana?

There was no objection.

§ 11. Consideration and Debate; Amendments

Motion to Close Debate

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(11) 114 Cong. Rec. 3022, 3023, 90th Cong. 2d Sess.

(12) 108 Cong. Rec. 19237, 87th Cong. 2d Sess.

(13) John W. McCormack (Mass.).

§ 11.1 A motion to fix the time of general debate on an appropriation bill is not in order prior to resolving into the Committee of the Whole; but after there has been debate in the Committee of the Whole and the Committee rises, the motion is in order in the House.

On Feb. 18, 1947,(14) a Member addressed Speaker Joseph W. Martin, Jr., of Massachusetts, as follows and proceedings ensued as indicated below:

Mr. [John] Taber [of New York]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1968) making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1947, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to 1 hour, to be equally divided and controlled by the gentleman from Missouri [Mr. Cannon] and myself.

The Speaker: Is there objection to the request of the gentleman from New York?

Mr. [Vito] Marcantonio [of New York]: Mr. Speaker, reserving the right to object, is this the bill that contains the cuts of appropriations for OPA?

Mr. Taber: Yes.

Mr. Marcantonio: Then I object, Mr. Speaker.

Mr. Taber: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Taber: The House may go into the Committee of the Whole and later, after debate has occurred, rise, and then a motion would be in order to close debate; but otherwise a motion would not be in order at this time to close?

The Speaker: The gentleman from New York states the situation accurately. The House must first go into Committee and have general debate, and then rise and fix the time of debate by vote.

Consideration of Senate Amendments

§ 11.2 The House has considered Senate amendments to a general appropriation bill in Committee of the Whole under the five-minute rule.

On July 12, 1945,(1) a Member addressed Speaker Sam Rayburn, of Texas, and proceedings ensued as indicated below:

Mr. [Clarence] Cannon of Missouri: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of Union for the consideration of the bill (H.R. 3368) making appropriations for war agencies for the fiscal year ending June 30,

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(14) 93 Cong. Rec. 1138, 80th Cong. 1st Sess.

(1) 91 Cong. Rec. 7474, 79th Cong. 1st Sess. See also 91 Cong. Rec. 7226, 7227, 79th Cong. 1st Sess., July 5, 1945. For further discussion see Ch. 32, House-Senate Relations, infra.

1946, and for other purposes, with Senate amendments. Pending that motion, Mr. Speaker, I ask unanimous consent to dispense with general debate.

The Speaker: Is there objection to the request of the gentleman from Missouri?

Mr. [John] Taber [of New York]: Mr. Speaker, reserving the right to object, that is satisfactory to me. That would not mean, of course, that there could be no debate on amendments?

Mr. Cannon of Missouri: Amendments will be considered under the 5-minute rule.

The Speaker: Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Speaker: The question is on the motion of the gentleman from Missouri.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3368) making appropriations for war agencies for the fiscal year ending June 30, 1946, and for other purposes, with Senate amendments, with Mr. Sparkman in the chair.

The Clerk read the title of the bill.

Parliamentarian's Note: This procedure is different from consideration in the House as in Committee of the Whole, where motions under Rule XVI clause 4 are in order.

Terms of Debate

§ 11.3 Before consideration of the general appropriation bill, 1951, containing all the appropriations for the various agencies of the government, it was agreed by unamimous consent that general debate run without limit to be equally divided between the Chairman and ranking minority member of the Committee on Appropriations; and that following the reading of the first chapter of the bill not to exceed two hours general debate be had before the reading of each subsequent chapter, one-half to be controlled by the chairman and one-half by the ranking minority member of the subcommittee in charge of the chapter.

On Apr. 3, 1950,(2) a Member addressed Speaker Sam Rayburn, of Texas, as follows, and the proceedings were as indicated below:

Mr. [Clarence] Cannon [of Missouri]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7786) making appropriations for the support of the Government for the fiscal year ending June 30, 1951, and for other purposes; and pending that I ask unanimous consent that time for general debate be equally di-

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2. 96 Cong. Rec. 4614, 4615, 81st Cong. 2d Sess.

vided, one-half to be controlled by the gentleman from New York [Mr. Taber] and one-half by myself; that debate be confined to the bill; and that following the reading of the first chapter of the bill, not to exceed 2 hours general debate be had before the reading of each subsequent chapter, one-half to be controlled by the chairman and one-half by the ranking minority member of the subcommittee in charge of the chapter. . . .

Mr. [Ben F.] Jensen [of Iowa]: Of course, Mr. Speaker, I will not object, except to say that I trust and am sure the majority of the Members of the House hope that the chairman of the full committee, the gentleman from Missouri [Mr. Cannon] will not make points of order against Members on the ground that they are speaking out of order when so much is involved in this bill. I think we should have the greatest leeway to discuss these things.

The Speaker: The Chair would think that this appropriation bill actually being 11 bills in one, and covering everything in the Government, a Member speaking on the bill would have a rather wide range.

Mr. Jensen: I thank the Speaker. I was hoping the Speaker would say just that.

The Speaker: Is there objection to the request of the gentlman from Missouri?

There was no objection.

§ 11.4 During the consideration of the general appropriation bill, 1951, terms of consideration were agreed upon, including: that a chapter then under consideration be considered as read and open to points of order and amendment; and that a certain Member be authorized to offer a blanket amendment to a part of the chapter.

On Apr. 27, 1950,(3) the following unanimous-consent requests were made:

Mr. [Clarence] Cannon [of Missouri]: Mr. Speaker, I ask unanimous consent that—

The chapter on agricultural appropriations be considered as read and open to points of order and amendment; that the gentleman from Minnesota [Mr. H. Carl Andersen] have consent to offer a blanket amendment relating to administrative expenses;

That when the House adjourns on Friday it adjourn to meet on Monday next;

That no debate be in order on Friday, Monday, and Tuesday except general debate;

That general debate on the civil functions appropriations bill be confined to Tuesday;

That when the House adjourns on Tuesday next all general debate be concluded on the entire bill.

There was no objection to the request.

House as in Committee of the Whole

§ 11.5 On numerous occasions the House has by unanimous consent provided for the consider-

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3. 96 Cong. Rec. 5910, 81st Cong. 2d Sess.

ation of a nongeneral appropriation bill in the House as in the Committee of the Whole.

On June 14, 1962,(4) the following request was made in the House:

> Mr. [Albert] Thomas [of Texas]: Mr. Speaker, in accordance with the unanimous-consent agreement of yesterday, I ask for the immediate consideration of the joint resolution (H.J. Res. 745), making supplemental appropriations for the fiscal year 1962; and I ask unanimous consent, Mr. Speaker, that it be considered in the House as in Committee of the Whole.
>
> The Clerk read the title of the joint resolution.
>
> The Speaker:(5) Is there objection to the request of the gentleman from Texas? . . .
>
> There was no objection.

§ 11.6 Unanimous consent was granted that a joint resolution providing supplemental appropriations for the Department of Labor be considered in the House as in Committee of the Whole.

On Mar. 24, 1964,(6) the following proceedings took place in the House:

> Mr. [John E.] Fogarty [of Rhode Island]: Mr. Speaker, in accordance with the unamimous consent granted yesterday, I call up House Joint Resolution 962, making a supplemental appropriation for the fiscal year ending June 30, 1964, for the Department of Labor, and for other purposes, and ask unanimous consent that the joint resolution be considered in the House as in Committee of the Whole.
>
> The Clerk read the title of the joint resolution
>
> The Speaker:(7) Is there objection to the request of the gentleman from Rhode Island?
>
> There was no objection.
>
> The Clerk read the joint resolution, as follows:
>
>> *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1964, namely:
>>
>> DEPARTMENT OF LABOR
>>
>> *Bureau of Employment Security*
>>
>> Unemployment Compensation for Federal Employees and ex-Servicemen
>>
>> For an additional amount for "Unemployment compensation for Federal employees and ex-servicemen", $42,000,000.

Suspension of the Rules

§ 11.7 The two Houses having been unable to agree on all provisions of the 1943 agriculture

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4. 108 Cong. Rec. 10481, 87th Cong. 2d Sess. See also § 8, supra.
5. John W. McCormack (Mass.).
6. 110 Cong. Rec. 6096, 88th Cong. 2d Sess.
7. John W. McCormack (Mass.).

appropriation bill, the House adopted a motion to suspend the rules and pass a new bill containing matters in the original bill not in controversy.

On July 2, 1942,[8] a Member addressed Speaker Sam Rayburn, of Texas, as follows, and proceedings ensued as indicated below:

> Mr. [Malcolm C.] Tarver [of Georgia]: Mr. Speaker, I move to suspend the rules and pass the bill H.R. 7349, which I send to the Clerk's desk.
>
> The Clerk read as follows:
>
> > A bill making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1943, and for other purposes.
>
> The Speaker: Is a second demanded?
>
> Mr. [Everett M.] Dirksen [of Illinois]: Mr. Speaker, I demand a second.
>
> Mr. Tarver: Mr. Speaker, I ask unanimous consent that a second be considered as ordered.
>
> The Speaker: Is there objection to the request of the gentleman from Georgia [Mr. Tarver]?
>
> There was no objection.

After some discussion,[9] the rules were suspended and the bill was passed.[10]

Amendments—Reading Bill

§ 11.8 General revenue and appropriation bills are considered by paragraph for amendment and all other bills are considered by sections, including bills making appropriations for specific purposes.

On May 21, 1940,[11] the Committee of the Whole was considering House Joint Resolution 544, a relief appropriation bill. The following proceedings took place:

> Mr. [John] Taber [of New York]: Mr. Chairman, a parliamentary inquiry.
>
> The Chairman:[12] The gentleman will state it.
>
> Mr. Taber: Mr. Chairman, this bill comes from the Appropriations Committee. Ordinarily bills coming from the Appropriations Committee are read by paragraph. Bills coming from other committees are read by sections. I want to ask the Chairman, so that all Members may know as we approach the reading of the bill, how this bill will be read, so that they may know where to offer amendments.
>
> The Chairman: The Chair will state, in response to the parliamentary inquiry presented by the gentleman from New York [Mr. Taber], that it is the understanding of the Chair that, under the rule, general revenue measures and appropriation bills are considered by paragraph and that all other measures are considered by sections. Consequently, the pending bill will be considered by sections and amendments

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[8] 88 Cong. Rec. 5953, 5954, 77th Cong. 2d Sess.

[9] *Id.* at pp. 5954–60.

[10] *Id.* at p. 5960.

[11] 86 Cong. Rec. 6542, 76th Cong. 3d Sess. For discussion of amendments generally, see Ch. 27, infra.

[12] Fritz G. Lanham (Tex.).

offered by sections rather than by paragraphs.

§ 11.9 Appropriation bills are read by paragraph and amendments are in order only to the paragraph just read, not to the entire subject matter under a heading in an appropriation bill.

On Jan. 17, 1940,(13) the Committee of the Whole was considering H.R. 7922, an independent offices appropriation bill. Proceedings took place as indicated below:

Mr. [Robert] Luce [of Massachusetts]: A parliamentary inquiry.

The Chairman:(14) The gentleman will state it.

Mr. Luce: May I ask where the proper place would be to insert an amendment before the next part of the bill headed by capitals?

The Chairman: The Chair was unable to hear all of the inquiry by the gentleman from Massachusetts.

Mr. Luce: May I ask how far the bill has been read?

The Chairman: Down through the bottom of page 50. The only paragraph under the heading "United States Housing Authority" that would now be subject to amendment would be the last four lines on page 50.

Mr. Luce: Mr. Chairman, if I recollect the practice of the House, it has always been to include everything under a heading for amendment.

The Chairman: It has been the practice of the House from time immemorial to read appropriation bills by paragraphs.

§ 11.10 The rule of germaneness applies to amendments to appropriation bills; and an amendment proposing a specific appropriation must be offered when the paragraphs dealing with that subject are being considered.

On Jan. 31, 1938,(15) the Committee of the Whole was considering H.R. 8181, a District of Columbia appropriation bill. An amendment was read and a point of order raised as follows:

PUBLIC UTILITIES COMMISSION

For two commissioners, people's counsel, and for other personal services, $76,000, of which amount $1,620 shall be available for the employment of a secretary to the people's counsel, and not to exceed $5,000 may be used for the employment of expert services by contract or otherwise and without reference to the Classification Act of 1923, as amended.

Mr. [Vincent L.] Palmisano [of Maryland]: Mr. Chairman, I make a point of order against the language on page 7, line 3, after "$76,000", begin-

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13. 86 Cong. Rec. 442, 443, 76th Cong. 3d Sess. See also 116 Cong. Rec. 11648, 91st Cong. 2d Sess., Apr. 14, 1970 (proceedings relating to H.R. 16916).

14. Lindsay C. Warren (N.C.).

15. 83 Cong. Rec. 1307–09, 75th Cong. 3d Sess. For discussion of amendments generally, see Ch. 27, infra.

ning with the words "of which" and ending with the word "amended.". . .

The Chairman:[16] In the opinion of the Chair, very clearly this is an attempt to impose legislation on an appropriation bill, and the point of order is therefore sustained. . . .

The Clerk read as follows:

> For general advertising, authorized and required by law, and for tax and school notices and notices of changes in regulations, $9,000: *Provided,* That this appropriation shall not be available for the payment of advertising in newspapers published outside of the District of Columbia, notwithstanding the requirement for such advertising provided by existing law. . . .

Amendment by Mr. [Alfred N.] Phillips [Jr., of Connecticut]: On page 11, line 13, after the period, insert two new paragraphs as follows:

"For the employment of a secretary to the People's Counsel before the public utilities commission, $1,620.

"For the employment of expert aid to the People's Counsel, $5,000.". . .

Mr. Palmisano: Mr. Chairman, I made a point of order against the language on page 7, line 13, after the figures "$76,000" to the end of the paragraph, which point of order was sustained on the ground that it was legislation in an appropriation bill. The amendment offered by the gentleman from Connecticut would restore the language that was stricken out on the point of order; not only that, but we have passed that particular section and the amendment comes too late. . . .

The Chairman: The gentleman from Maryland bases his point of order on two grounds. . . .

The second ground raised by the gentleman from Maryland, that the amendment comes too late, and the point of order raised by the gentleman from Oklahoma, that the amendment is not germane to the paragraph offered, the Chair will be forced to sustain.

When Paragraph is Considered Passed

§ 11.11 In reading a general appropriation bill under the five-minute rule, a section or paragraph is considered as having been passed for an amendment when an amendment in the form of a new section or paragraph has been agreed to. On appeal, the Chair's ruling that the adoption of an amendment adding a new paragraph precludes further amendments to the prior paragraph of the bill was sustained.

On Jan. 23, 1942,[17] the Committee of the Whole was considering H.R. 6448, a supplemental appropriation bill for national defense. The Clerk read as follows, and proceedings ensued as indicated below:

> Tennessee Valley Authority Fund: For an additional amount for the Ten-

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16. William J. Driver (Ark.).

17. 88 Cong. Rec. 606, 607, 77th Cong. 2d Sess.

nessee Valley Authority fund, fiscal year 1942, for (1) the construction of a hydroelectric project on the French Broad River near Dandridge, Tenn., (2) the purchase or building of transmission facilities needed to connect this project to the existing transmission system of the Authority, and (3) the acquisition of land necessary for and the relocation of highways in connection with the accomplishment of the above project; $30,000,000, to be available for the administrative objects of expenditure and subject to the conditions specified under this heading in the Independent Offices Appropriation Act, 1942.

Mr. Lambertson rose.

Mr. [Clarence] Cannon of Missouri: Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

> Amendment offered by Mr. Cannon of Missouri: Page 4, after line 9, insert:
>
> "Department of State
>
> "Transportation Foreign Service: For an additional amount for Transportation, Foreign Service, fiscal year 1942, including the objects specified under this head in the Department of State Appropriation Act, 1942, $800,000."

Mr. Cannon of Missouri: Mr. Chairman, the purpose of this amendment is to make provision for a deficiency which was not foreseen, and which has occurred as the result of the declaration of war. We have in all parts of Europe and Asia diplomatic and consular representatives and attachés who must be brought home, together with their families and clerks and office staffs. They have to be shifted as a result of a change in the status brought about by the declaration of war. In the original appropriation there was something in excess of $700,000 in this fund—an amount which would have sufficed under normal conditions, but under recent developments there have been such heavy expenditures that only about $17,000 remains, which is insufficient to carry the Service beyond the 1st of the month. I offer this amendment to make provision for the unexpected deficiency

The Chairman:(18) The question is on agreeing to the amendment offered by the gentleman from Missouri.

The amendment was agreed to.

Mr. [William P.] Lambertson [of Kansas]: Mr. Chairman, I have an amendment at the desk.

The Clerk read as follows:

> Amendment offered by Mr. Lambertson: Page 3, line 22, strike out lines 22, page 3, to and including line 9 on page 4.

Mr. Cannon of Missouri: Mr. Chairman, I make the point of order that the amendment comes too late. We have passed that paragraph. We have adopted an amendment since the paragraph was read and it is no longer subject to amendment.

Mr. Lambertson: Mr. Chairman, I was on my feet standing alone before the gentleman from Missouri rose. The Chair recognized the gentleman from Missouri, but I had the floor ahead of him.

Mr. [Francis H.] Case of South Dakota: Mr. Chairman, it is my impression that the gentleman from Kansas was on his feet, and, seeing

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18. J. Bayard Clark (N.C.).

that the chairman of the subcommittee rose, he deferred to him to offer an amendment first.

The Chairman: The chairman of the committee was recognized by the Chair. The Chair asks the gentleman from Missouri if he insists upon his point of order.

Mr. Cannon of Missouri: Mr. Chairman, I regret that I must insist on the point of order.

Mr. [John] Taber [of New York]: Mr. Chairman, may I be heard on the point of order?

The Chairman: Certainly.

Mr. Taber: The gentleman from Kansas was on his feet asking for recognition at the time and on top of that the amendment was offered by the gentleman from Missouri, but that would not preclude this amendment from being offered. This is an amendment to strike out the previous paragraph. The amendment that the gentleman from Missouri [Mr. Cannon], added was an amendment adding an additional paragraph.

Mr. Cannon of Missouri: Mr. Chairman, the gentleman did not address the Chair at all. He at no time addressed the Chair until after the Clerk had concluded the reading of the new paragraph and the committee had adopted it.

Mr. Lambertson: I beg your pardon; I did. I did stand and I did address the Chair. I was standing before he ever started to get up.

The Chairman: The Chair was aware of the fact that the gentleman from Kansas [Mr. Lambertson] was on his feet, and the Chair would like to overrule the point of order, but feels that technically the point of order is well taken, and it being insisted upon by the chairman of the Committee on Appropriations, the Chair is constrained to sustain the point of order.

Mr. Taber: Mr. Chairman, I appeal from the decision of the Chair.

The Chairman: The question is, Shall the decision of the Chair stand as the judgment of the Committee?

The question was taken; and on a division (demanded by Mr. Taber) there were ayes 75 and noes 62.

Mr. Taber: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chair appointed Mr. Cannon of Missouri and Mr. Taber to act as tellers.

The Committee again divided, and the tellers reported there were ayes 126 and noes 89.

So the decision of the Chair was sustained.

§ 11.12 If an amendment affects, in part, a paragraph of an appropriation bill not yet read by the Clerk, but no point of order is made against the amendment, it is considered, but further amendments to intervening portions of text that have not been read are not precluded.

On Apr. 3, 1957,(19) the Committee of the Whole was considering H.R. 6287, the Departments of Labor, Health, Education, and Welfare, and related agencies appropriation bill. At one point the

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19. 103 Cong. Rec. 5018, 5019, 85th Cong. 1st Sess.

Clerk read as follows, and the proceedings were as indicated below:

Mr. [Thomas M.] Pelly [of Washington]: Mr. Chairman, a parliamentary inquiry.

The Chairman:(20) The gentleman will state it.

Mr. Pelly: I did not understand that the Clerk had read beyond line 17. May I inquire if this amendment includes the figure on line 20?

The Chairman: The amendment that the gentleman from Louisiana offered was addressed to the language beginning on line 5 but does touch on a sum included in the next paragraph beginning on line 18.

Mr. Pelly: Mr. Chairman, I have an amendment at the desk which would apply to line 17. If this amendment were acted on, would that prevent my amendment from being offered at the end of the paragraph which begins on line 5 and ends on line 17?

The Chairman: The amendment of the gentleman applies to that portion between line 15 and line 17?

Mr. Pelly: That is correct.

The Chairman: It would be in order, because the Clerk has not read the next 3 lines, 18, 19, and 20.

Mr. [John E.] Fogarty [of Rhode Island]: May I be heard, Mr. Chairman?

The Chairman: Yes.

Mr. Fogarty: It was my understanding that the amendment offered by the gentleman from Louisiana went down to and included the language at the end of line 20 on page 25.

The Chairman: The amendment does go down that far, but the Clerk has not read those last three lines.

Mr. Fogarty: Mr. Chairman, I make the point of order that further amendments cannot be offered to the language before line 20 on page 25, because the amendment offered by the gentleman from Louisiana [Mr. Hébert] takes in 3 places in the bill and goes down to and including the paragraph "Salaries and expenses" where his amendment offers to cut the amount in line 20.

The Chairman: The statement the gentleman makes is correct, but the fact remains no point of order was made when the amendment was read.

Mr. Fogarty: Mr. Chairman, the point I was trying to make is that there were no objections raised when the amendment was offered and considered down through line 20.

The Chairman: The portion of the gentleman's amendment having to do with those three lines, lines 18, 19, and 20, can have no effect until those lines are read and then considered.

Mr. Fogarty: Mr. Chairman, a further parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Fogarty: Is the gentleman's amendment in order when he has, in one amendment, sought to cut three places in the bill, from lines 5 to 20?

The Chairman: No point of order was raised against it.

Mr. Fogarty: I thought that would be a concession that those lines had been read, the lines down to and including line 20.

The Chairman: It is no concession until such time as that portion of the bill is read.

Mr. Pelly: Mr. Chairman, reserving the right to object, if no objection were

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20. Aime J. Forand (R.I.).

made, would that preclude the consideration of my amendment which begins on line 17, following the action on the amendment of the gentleman from Louisiana [Mr. Hébert]?

The Chairman: No.

Unanimous Consent to Offer Amendment

§ 11.13 An amendment to a paragraph of an appropriation bill which has been passed during the reading of the bill may be offered only by unanimous consent.

On Apr. 14, 1970,[1] during consideration in the Committee of the Whole of the education appropriation bill (H.R. 19616) a point of order was raised against an amendment, as follows:

> Mr. [Marvin L.] Esch [of Michigan]: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> > Amendment offered by Mr. Esch: Strike out lines 17 and 18 on page 3 and insert in lieu thereof the following "titles I, III, IV (except part F), part E of title V and title VI of the Higher Education Act of 1965, as amended, title I, including section".
> >
> > And, on line 2 of page 4, strike out "$899,880,000" and insert in lieu thereof "$992,100,000".
>
> Mr. [Daniel J.] Flood [of Pennsylvania]: Mr. Chairman, I make a point of order against the amendment on precisely the same grounds. The Clerk has now read past page 4, line 17, "Community Education."
>
> The gentleman was not on his feet. He did not address the Chair. The amendment is clearly out of order.
>
> Mr. Esch: Mr. Chairman, I was on my feet, and as soon as the Clerk read "higher education" I said, "Mr. Chairman."
>
> Mr. Chairman, I sincerely object to the fact that I am not given recognition. I was on my feet, having recognized the experience of the previous Member.
>
> As soon as the Clerk read "higher education," I said "Mr. Chairman" twice.
>
> The Chairman:[2] The Chair would like to protect the gentleman in his rights. If the gentleman did address the Chair, the Chair did not hear the gentleman at that point. The gentleman may make a unanimous-consent request that his amendment be considered although the Clerk had passed it at the time he was recognized by the Chair, and, if there is no objection, the amendment can be considered under those circumstances. Does the gentleman make such a request?
>
> Mr. Esch: Mr. Chairman, I ask unanimous consent that my amendment be considered.
>
> The Chairman: Is there objection to the request of the gentleman from Michigan?
>
> Mr. Flood: Mr. Chairman, I must protect the bill. I am pained, but I must object.
>
> The Chairman: The Chair is constrained to uphold the point of order of the gentleman from Pennsylvania. The

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[1] 116 Cong. Rec. 11648, 91st Cong. 2d Sess. See also 118 Cong. Rec. 21118–22, 92d Cong. 2d Sess., June 15, 1972 (proceedings relating to H.R. 15417).

[2] Chet Holifield (Calif.).

Chair wants to be fair, but the gentlemen in the Chamber that wish to offer their amendments must be on their feet.

Amendment Affecting Previous Line in Paragraph

§ 11.14 The pending paragraph of an appropriation bill being read under the five-minute rule is open to amendment at any point; thus, a senior member of the committee reporting the bill may be recognized to offer an amendment, even though an amendment proposed by another Member affects a line occurring earlier in the paragraph.

On July 23, 1970,(3) during consideration in the Committee of the Whole of the Departments of Labor and Health, Education, and Welfare appropriation bill (H.R. 18515) the following proceedings took place:

Mr. [George H.] Mahon [of Texas]: Mr. Chairman, I have an amendment at the desk.

The Chairman:(4) The Clerk will report the amendment.

Mr. [Charles R.] Jonas [of North Carolina]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Jonas: May I respectfully remind the Chair that I was recognized, and that the Chair allowed a point of order to intervene only, and I had been recognized. The Chair ruled that since a point of order had been made, the Chair would dispose of the point of order first.

The Chairman: The Chair respectfully states that the point of order did intervene following the gentleman's recognition. The Chair intends to recognize members of the committee in the order of their seniority. The Chair, therefore, recognized the gentleman from Texas. The Chair will later recognize the gentleman from North Carolina.

Mr. [Robert H.] Michel [of Illinois]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Michel: Did the Clerk read through the section concluding with line 3, page 39?

The Chairman: It is the understanding of the Chair that he did.

Mr. Jonas: Mr. Chairman, a further parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Jonas: I respectfully ask the Chair to rule that my amendment does precede the amendment that will be offered by the gentleman from Texas. My amendment goes to line 5, page 38, and my information is that the amendment to be offered by the gentleman from Texas comes at a later point in the paragraph.

The Chairman: A whole paragraph is open to amendment at the same time.

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(3) 116 Cong. Rec. 25635, 91st Cong. 2d Sess.

(4) Chet Holifield (Calif.).

Therefore, the line does not determine the order of the amendment.

Language Previously Stricken

§ 11.15 A point of order having been sustained against an entire paragraph in an appropriation bill, it is in order to offer an amendment at that point in the bill to insert a new paragraph containing the stricken language excepting those provisions which were held in violation of the rules.

On July 23, 1970,(5) during consideration in the Committee of the Whole of a general appropriation bill (H.R. 18515), a point of order was raised against the following amendment, and proceedings ensued as indicated below:

> Amendment offered by Mr. [Robert H.] Michel [of Illinois]: on page 38, line 1, insert the following:
>
> OFFICE OF ECONOMIC OPPORTUNITY
>
> ECONOMIC OPPORTUNITY PROGRAM
>
> For expenses necessary to carry out the provisions of the Economic Opportunity Act of 1964 (Public Law 88-452, approved August 20, 1964), as amended, $2,046,200,000, plus reimbursements: *Provided,* That this appropriation shall be available for transfers to the economic opportunity loan fund for loans under title III, and amounts so transferred shall remain available until expended: *Provided further,* That this appropriation shall be available for the purchase and hire of passenger motor vehicles, and for construction, alteration, and repair of buildings and other facilities, as authorized by section 602 of the Economic Opportunity Act of 1964: *Provided further,* That this appropriation shall not be available for contracts under titles I, II, V, VI, and VIII extending for more than twenty-four months. . . .

MR. [DURWARD G.] HALL [of Missouri]: Mr. Chairman, I make a point of order against the amendment.

THE CHAIRMAN:(6) The gentleman will state the point of order.

MR. HALL: Mr. Chairman, the point of order against the amendment is that all of the language to which the amendment addresses itself on page 38 of the bill, H.R. 18515, has been stricken.

Mr. Chairman, there is no way that we can amend something that is not before the House.

THE CHAIRMAN: The gentleman from Illinois (Mr. Michel) has offered a separate amendment to insert a new paragraph, and the amendment is in order.

The gentleman from Illinois (Mr. Michel) is recognized for 5 minutes in support of his amendment.

Changing Figures in Bill

§ 11.16 To a bill making appropriations for the District of Columbia that were to be chargeable against revenues of the District for the ensuing fiscal year, an amendment increasing the amount of the appropriation for certain items included in the bill was held to be in order.

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5. 116 CONG. REC. 25634, 25635, 91st Cong. 2d Sess.

6. Chet Holifield (Calif.).

On June 14, 1954,(7) during consideration in the Committee of the Whole of the District of Columbia appropriations bill (H.R. 9517), which made appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1955, a point of order was raised against an amendment, and proceedings ensued as indicated below:

Mr. [Dewitt S.] Hyde [of Maryland]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Hyde:
>
> On page 22, line 20, strike out "$1,124,365" and insert in lieu thereof "$1,393,665."
>
> On page 22, line 20, strike out "$135,406" and insert in lieu thereof "$404,706."

Mr. [Earl] Wilson of Indiana: Mr. Chairman, I make a point of order against the amendment on the ground that it is legislation upon an appropriation bill. There is no authority of law for the District of Columbia to enter into a new activity of this kind, and a new business venture. Therefore, the subcommittee saw fit to eliminate that from the bill, and I make a point of order against it.

The Chairman:(8) Permit the Chair to make this statement. The amendment, which is before the Committee and which the Chair now has before him, simply increases the amount of money in the bill. Does the gentleman from Indiana make a point of order against increasing the amount of money in the bill?

Mr. Wilson of Indiana: Mr. Chairman, I was under the impression that it was for the purpose of starting the District of Columbia in the parking business. If I may reserve my point of order until the gentleman explains what the purpose of his amendment is, of course I will be in a better position to speak against it. . . .

Mr. Chairman, I still insist on the point of order on the ground that the appropriation is not authorized by law.

The Chairman: The Chair is of the opinion that if the money is unauthorized it is ineffective. The Chair is also of the opinion that the money can be used only for the items included in the bill and as authorized by law.

The Chair, therefore, overrules the point of order.

Parliamentarian's Note: If a ceiling had been specified on total authorized expenditures, an amendment which had the effect of exceeding that total would not have been permitted. The amounts added to the appropriation here did not cause a specific authorized total to be exceeded, and the Chair took the view that the increase in the appropriation would apply only to items included in the bill and already authorized.

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7. 100 Cong. Rec. 8191, 8192, 83d Cong. 2d Sess.
8. J. Harry McGregor (Ohio).

§ 11.17 Where the House has adopted an amendment changing a figure in an appropriation bill, it is not in order to further amend such figure.

On Mar. 11, 1942,(9) the Committee of the Whole was considering H.R. 6736. The following proceedings took place:

Mr. [John J.] Cochran [of Missouri]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Cochran: On page 7, line 5, after the word "law", strike out "$144,973,700" and insert "$128,273,700."

[The amendment was adopted.]

Mr. [James] Domengeaux [of Louisiana]: Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

> Page 7, line 5, strike out "$144,973,700" and insert in lieu thereof "$145,933,700."

Mr. [John] Taber [of New York]: Mr. Chairman, I make the point of order against the amendment on the ground that there has been a change already in this figure and another change cannot be considered.

The Chairman:(10) The gentleman is correct. The figure cannot now be amended.

§ 11.18 Where a figure in an appropriation bill has been agreed to (and hence cannot be altered by an amendment proposing a further change in amount), an amendment inserted following the figure agreed upon and providing funds "in addition thereto" is in order if authorized.

On June 5, 1959,(11) the Committee of the Whole was considering H.R. 7509, a bill making appropriations for the civil functions administered by the Department of the Army. The Clerk read as follows, and proceedings ensued as indicated below:

> Amendment offered by Mr. [Fred] Wampler [of Indiana]: On page 21, line 7, after the amount shown add the following: "And in addition $52,000 for the following projects: Sugar Creek, West Terre Haute, Clinton, and Conover Levee."

Mr. [John] Taber [of New York]: Mr. Chairman, a point of order.

The Chairman:(12) The gentleman will state it.

Mr. Taber: Mr. Chairman, I make the point of order that the language has been once amended.

The Chairman: The gentleman from New York must have misunderstood the reading of the amendment, because it follows the amount and does not alter the amount.

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9. 88 Cong. Rec. 2270, 2272, 77th Cong. 2d Sess.

10. Alfred L. Bulwinkle (N.C.).

11. 105 Cong. Rec. 10057, 86th Cong. 1st Sess.

12. Hale Boggs (La.).

The gentleman from Indiana is recognized for 5 minutes in support of his amendment.

Amendment in Nature of Substitute

§ 11.19 Where an appropriation bill is being read by paragraphs, a subsitute for several paragraphs of the bill may be offered to the first paragraph modified by the amendment only if notice is given that, if the amendment is agreed to, motions will be made subsequently to strike out the remaining paragraphs affected thereby.

On July 29, 1969,(13) the Committee of the Whole was considering H.R. 13111, a Departments of Labor and Health, Education, and Welfare appropriation bill. The proceedings were as follows:

The Clerk read as follows:

> Amendment offered by Mr. [Robert H.] Michel [of Illinois]: On page 25 strike out line 9 and all that follows on page 25 and insert in lieu thereof the following:
>
> "For carrying out titles II, III, V, VII, and section 807 of the Elementary and Secondary Education Act of 1965, as amended, section 402 of the Elementary and Secondary Education Admendments of 1967, and title III-A and V-A of the National Defense Education Act of 1958, $254,163,000. . . ."

Mr. [James G.] O'Hara [of Michigan]: Mr. Chairman, I make a point of order against the amendment.

The Chairman:(14) The gentleman will state his point of order.

Mr. O'Hara: Mr. Chairman, I make a point of order against the amendment on the ground that the paragraph which it amends has not yet been read. . . .

Mr. Chairman, when the amendment was offered, the Clerk had finished reading the paragraph which begins on line 9, page 25, and concludes on line 24, page 25.

At that point amendments to that paragraph were in order. But the amendment of the gentleman from Illinois does not change so much as a comma in that paragraph; it repeats it absolutely verbatim. It is not an amendment to that paragraph. It is only in subsequent paragraphs that any amendment is made.

I would make the point of order, Mr. Chairman, that the gentleman from Illinois will have to wait until that paragraph is read before he can offer an amendment to it.

The Chairman: The Chair will hear the gentleman from Illinois on the point of order.

Mr. Michel: Mr. Chairman, I submit that really all I am doing is adding to the first paragraph; therefore, it is very much in order.

The Chairman: The Chair has considered the arguments both for and against the point of order. The Chair sees no inconsistency in the gentleman's amendment repeating the paragraph on page 26 which the Clerk had

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13. 115 Cong. Rec. 21217, 21218, 91st Cong. 1st Sess.

14. Chet Holifield (Calif.).

not yet read. It is a different paragraph, but the Chair feels that the following paragraph can be consolidated with an amendment to the total paragraph. . . .

Mr. O'Hara: Mr. Chairman, under the rules of the House, when a bill is to be read by paragraph and a Member wishes to amend a paragraph that has been read and several succeeding paragraphs he is permitted to offer an amendment at the time the first of those paragraphs is read that he wants to amend and then at the same time give notice that if his amendment, which goes beyond the first paragraph and into several others, is adopted he will move to strike the succeeding paragraphs.

In the first place, the gentleman from Illinois gave no such notice, but let us not dwell on that. Let us dwell on the danger of upholding the amendment he is offering.

The gentleman from Illinois, I am sure, will agree that he makes no change whatsoever in the paragraph just read; absolutely no change.

If the Chair is going to hold that one can offer an amendment at any place one wants in the bill in order to get a provision that comes a page later, or two pages later, or 10 pages later—and that is what he has done; he has offered an amendment here that changes nothing but gets at something on the next page—and if we are going to say that the precedents of this House say one can offer an amendment any place and repeat some language until it gets to the thing he wants to amend, we are heading for legislative chaos, Mr. Chairman.

I believe this is a very serious problem, and I most earnestly ask the Chair to carefully consider his ruling, because otherwise it might be possible to offer an amendment to repeat the language for the next 25 pages until it gets to the things one seeks to change. I believe it is terribly important that this amendment be considered out of order, Mr. Chairman. . . .

The Chairman: The Chair is prepared to rule. The Chair is presented with a most difficult ruling at this time. He has resorted to a precedent in "Hinds' Precedent," volume V, page 404, paragraph 5795, which reads as follows:

> When it is proposed to offer a single substitute for several paragraphs of a bill which is being considered by paragraphs, the substitute may be moved to the first paragraph with notice that if it be agreed to, motions will be made to strike out the remaining paragraphs.

The Chair notes that the gentleman from Illinois did not give such notice. The amendment goes beyond the paragraph which has been read and in effect modifies a paragraph which has not yet been read.

The Chairman, therefore, sustains the point of order.

The amendment in the form in which it is offered is not in order.

§ 11.20 Where an amendment in the nature of a substitute for several paragraphs of an appropriation bill has been agreed to and notice has been given that motions would be made to strike out ensuing paragraphs of the bill as read, the paragraphs are subject to perfecting

amendments while such motions to strike are pending.

On June 15, 1972, during consideration of the Departments of Labor and Health, Education, and Welfare appropriation bill(15) Mr. William D. Hathaway, of Maine, offered an amendment in the nature of a substitute, as follows:(16)

> MR. HATHAWAY: Mr. Chairman, I have an amendment to the paragraph of the bill just read which is a single substitute for several paragraphs of the bill dealing with the Office of Education, and I hereby give notice that if the amendment is agreed to I will make motions to strike out the remaining paragraphs beginning with line 14 on page 19 and extending through and including line 17 on page 21.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Hathaway: On page 19, strike out lines 6 through 13 and substitute in lieu thereof: . . .

The amendment was agreed to.(17)

Subsequently,(18) the following proceedings occurred:

> MR. HATHAWAY: Mr. Chairman, I move to strike the paragraph beginning on line 16, page 20, and extending down through line 8 on page 21.
>
> THE CHAIRMAN:(19) Without objection, the motion is agreed to.
>
> MR. [ALBERT H.] QUIE [of Minnesota]: Mr. Chairman reserving the right to object, I would like to make a parliamentary inquiry. . . .
>
> . . . I have an amendment at the desk which would, on page 21, line 1, strike out the words after "1974" down through the word "Act" on line 3. Is it possible to offer that amendment now that the Hathaway amendment has been adopted?
>
> THE CHAIRMAN: It is possible.
>
> MR. QUIE: Mr. Chairman, I offer that amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Quie:
>
> On page 21, line 1, strike out all that follows after "1974" through the word "Act" on line 3.
>
> THE CHAIRMAN: The Chair was of the impression that the amendment offered by the gentleman from Maine had been agreed to, striking out the paragraph to which the amendment is offered. . . .
>
> MR. QUIE: In my copy of the Hathaway amendment it was not stricken out. If that is correct, the Hathaway amendment would put a period after "1974" on line 1 and strike out the rest. It was my understanding the Hathaway amendment put a period after the word "Act" on line 3 and stuck out the proviso, which is the rest of line 3 down through line 8.

It then appeared that the Chairman had not heard Mr. Quie's reservation of objection. The following exchange occurred:

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15. H.R. 15417.
16. 118 CONG. REC. 21106, 92d Cong. 2d Sess.
17. *Id.* at p. 21118.
18. *Id.* at p. 21119.
19. Chet Holifield (Calif.).

THE CHAIRMAN: The Chair would have to rule that the gentleman rose too late. The motion had been offered by Mr. Hathaway, and there was no objection and it was acceded to.

MR. QUIE: Mr. Chairman, the Chair asked if there was any objection, and I reserved the right to object, which I am still reserving, and on that I asked my parliamentary inquiry.

THE CHAIRMAN: The Chair must state that the Chair did not hear the gentleman say he was reserving the right to object on the Hathaway motion. . . .

The Chair will recognize the gentleman on the basis of his statement which the Chair did not hear.

The Clerk will report the amendment offered by the gentleman from Minnesota.

Further objection was made to the Quie amendment, however:(20)

MR. [DANIEL J.] FLOOD [of Pennsylvania]: Mr. Chairman, my point of order is that the committee has just agreed to this.

THE CHAIRMAN: The committee has agreed to what?

MR. FLOOD: The position taken by my friend, the gentleman from Minnesota (Mr. Quie). I have here, for instance, that we voted not to exceed $18 million for research and training, under part C of said 1963 act. Now I had the clear impression, I am sorry to say, that the committee just agreed to this. . . .

THE CHAIRMAN: The Chair will state that the first amendment offered by Mr. Hathaway on page 19, was to the paragraph beginning on line 7 and that amendment was a substitute amendment, and was agreed to.

Now we still have to read each one of the paragraphs of the bill duplicated or modified by the Hathaway amendment, and a perfecting amendment to those paragraphs is in order even though a motion to strike out is first offered.

MR. O'HARA: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state his point of order.

MR. O'HARA: Mr. Chairman, my point of order is if a motion to strike has been made, is it not then out of order to try to amend the paragraph that the motion to strike applies to?

THE CHAIRMAN: The Chair would have to rule that a perfecting amendment is in order although a motion to strike is pending. Therefore the Chair rules that the amendment offered by the gentleman from Minnesota (Mr. Quie) is in order on the basis that it is a perfecting amendment to the paragraph to which the motion to strike is pending.

Separate Votes in House on Amendments

§ 11.21 Separate votes have been demanded on amendments adopted in the Committee of the Whole.

On Apr. 4, 1957,(1) H.R. 6287, the Departments of Labor and

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20. 118 CONG. REC. 21119, 21120, 92d Cong. 2d Sess.

1. 103 CONG. REC. 5162, 85th Cong. 1st Sess.

Health, Education, and Welfare appropriation bill was being considered in the House after amendments had been adopted in the Committee of the Whole. Speaker Sam Rayburn, of Texas, stated:(2)

> The unfinished business is the further consideration of the bill H.R. 6287, which the Clerk will report by title.
>
> [The Clerk read the title of the bill.]
>
> Separate votes having been demanded on all amendments adopted in the Committee of the Whole, the Clerk will report the first amendment on which a separate vote was demanded.

Recommittal of Bill With Instructions

§ 11.22 A motion that the Committee of the Whole rise and report a bill back to the House with the recommendation that the enacting clause be stricken and that the bill be recommitted to the Committee on Appropriations with instructions was held not to be in order in the Committee of the Whole.

On Apr. 3, 1957,(3) the Committee of the Whole was considering H.R. 6287, the Departments of Labor and Health, Education, and Welfare appropriation bill. The Clerk read a motion as follows, and proceedings ensued as indicated below.

> Mr. Hoffman moves that the Committee do now rise, report the bill back to the House with the recommendation that the enacting clause be stricken and that the bill be recommitted to the Committee on Appropriations with instructions that it be reported back to the House within 5 days with amendments which will indicate the places and amounts in the budget where the committee believes, in view of the statements made in the Committee of the Whole House on the State of the Union, that substantial reductions may best be made and will meet the views of the House with the least curtailment of efficient administration by the Departments affected.
>
> MR. [JOHN E.] FOGARTY [of Rhode Island]: Mr. Chairman, I reserve a point of order on the motion. . . .
>
> THE CHAIRMAN:(4) Does the gentleman from Rhode Island care to be heard on the point of order? The Chair is ready to rule.
>
> MR. FOGARTY: Mr. Chairman, as I remember the reading of the motion, there is a matter of wording contained therein that is not permissible under the rules governing procedure in the

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2. Note: The Committee on Appropriations furnished printed forms containing all 18 amendments to the bill adopted in the Committee of the Whole, with further pertinent information. Fourteen rollcalls occurred in one day with respect to such amendments.

3. 103 CONG. REC. 5013, 85th Cong. 1st Sess.

4. Aime J. Forand (R.I.).

Committee of the Whole, but would be allowed under the rules of procedure in the House.

THE CHAIRMAN: Does the gentleman from Michigan desire to be heard?

MR. [CLARE E.] HOFFMAN [of Michigan]: Yes, Mr. Chairman. I want to point out that there is a precedent for the motion and the rules cite a precedent where that motion has been held to be proper in the Committee.

THE CHAIRMAN: The Chair is not familiar with that precedent, but the rules of the House provide that certain language contained in the motion made by the gentleman from Michigan could be entertained in the Committee of the Whole, but the balance of the motion would only be appropriate in the House. For that reason, the Chair sustains the point of order.

Parliamentarian's Note: While the motion that the Committee rise and report the bill back to the House with the recommendation that the bill be recommitted may be in order when the bill is being considered under the general rules of the House (see 4 Hinds' Precedents §§ 4761, 4762; 8 Cannon's Precedents § 2329), it is not in order in the form presented above (where inconsistent motions are joined) nor is it in order when a bill is being considered under a special rule (see 96 CONG. REC. 12219, 81st Cong. 2d Sess., Aug. 10, 1950).

§ 11.23 On occasion a general appropriation bill has been recommitted with instructions to report back forthwith with an amendment; the bill has then been so reported, the amendment agreed to, the bill again ordered engrossed and read a third time, and the bill passed, in that order.

On June 8, 1945,[5] during consideration in the House of H.R. 3368, a war agencies appropriation bill, the following proceedings occurred:

THE SPEAKER:[6] The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MR. [JOHN] TABER [of New York]: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER: Is the gentleman opposed to the bill?

MR. TABER: I am, Mr. Speaker.

THE SPEAKER: The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. Taber moves to recommit the bill to the Committee on Appropriations with instructions to report the same back forthwith with an amendment reducing the Office of War Information by $17,000,000, to apply to the estimates for activities in Europe and the United States.

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[5] 91 CONG. REC. 5832, 5833, 79th Cong. 1st Sess. See also 97 CONG. REC. 6533, 6534, 82d Cong. 1st Sess., June 13, 1951.

[6] Sam Rayburn (Tex.).

Mr. [**Clarence**] **Cannon** of Missouri: Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

The Speaker: The question is on the motion to recommit.

The question was taken; and the Chair being in doubt, the House divided, and there were—ayes 120, noes 108.

Mr. Cannon of Missouri: Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 133, nays 128, not voting 166. . . .

Mr. Cannon of Missouri: Mr. Speaker, pursuant to the instructions of the House, I now report back to the House the bill H.R. 3368, the war agencies appropriation bill, with the amendment incorporated in the motion to recommit, and with the recommendation that the amendment be agreed to and the bill as amended do pass.

The Speaker: The Clerk will report the amendment.

The Clerk read as follows:

> [Amendment reducing the Office of War Information by $17,000,000, to apply to the estimates for activities in Europe and the United States.]

Mr. Cannon of Missouri: Mr. Speaker, I move the previous question.

The previous question was ordered.

The Speaker: The question is on agreeing to the amendment.

The amendment was agreed to.

The Speaker: The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The Speaker: The question is on the passage of the bill.

Mr. Cannon of Missouri: Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 252, nays 2, not voting 178. . . .

So the bill was passed.

§ 11.24 A deficiency appropriation bill has been recommitted with instructions to report back forthwith with an amendment.

On Apr. 1, 1948,(7) the Committee of the Whole was considering H.R. 6055. The Clerk read as follows, and proceedings ensued as indicated below:

Mr. [Clarence] Cannon [of Missouri] moves to recommit the bill to the Committee on Appropriations with instructions to report the bill back forthwith with an amendment as follows:

On page 10, line 7, strike out "$300,000,000" and insert in lieu thereof "$400,000,000."

Mr. [**John**] **Taber** [of New York]: Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

Mr. Cannon: Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 199, nays 154, not voting 78. . . .

Mr. Taber: Mr. Speaker, in accordance with the instructions of the

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7. 94 Cong. Rec. 3994, 3995, 80th Cong. 2d Sess.

House, I report the bill back with an amendment which is at the desk.

The Speaker:(8) The Clerk will read the amendment.

The Clerk read as follows:

> Page 10, line 7, strike out "$300,000,000" and insert in lieu thereof "$400,000,000."

The Speaker: The question is on the amendment.

The amendment was agreed to.

Reduction of Total Appropriation

§ 11.25 The House has agreed to a motion to recommit an appropriation bill with instructions to the Committee on Appropriations to report back forthwith with an amendment reducing the total appropriation to a figure not to exceed 95 percent of the budget estimates.

On July 18, 1967,(9) during consideration in the House of H.R. 11456, a Department of Transportation appropriation bill, the following proceedings occurred:

The Clerk read as follows:

> Mr. [Melvin R.] Laird [of Wisconsin] moves to recommit the bill to the Committee on Appropriations with instructions to that committee to report it back forthwith with the following amendment: On page 18, immediately following line 15, insert a new section as follows:
>
> "Sec. 702. Money appropriated in this Act shall be available for expenditure in the fiscal year ending June 30, 1968, only to the extent that expenditure thereof shall not result in total aggregate net expenditures of all agencies provided for herein beyond 95 per centum of the total aggregate net expenditures estimated therefor in the budget for 1968 (H. Doc. 15)."

The Speaker:(10) Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The Speaker: The question is on the motion to recommit.

Mr. Gerald R. Ford [of Michigan]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 213, nays 188, not voting 30. . . .

So the motion to recommit was agreed to. . . .

Mr. [Edward P.] Boland [of Massachusetts]: Mr. Speaker, pursuant to the instructions of the House, in the motion to recommit, I report back the bill H.R. 11456 with an amendment.

The Speaker: The Clerk will report the amendment.

The Clerk read as follows:

> On page 18, immediately following line 15, insert a new section as follows:
>
> "Sec. 702. Money appropriated in this Act shall be available for expenditure in the fiscal year ending June 30, 1968, only to the extent that expenditure thereof shall not result in total aggregate net expenditures of all agencies provided for herein beyond 95 percent of the total aggregate net expenditures estimated therefor in the budget for 1968 (H. Doc. 15)."

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8. Joseph W. Martin, Jr. (Mass.).
9. 113 Cong. Rec. 19273-75, 90th Cong. 1st Sess.
10. John W. McCormack (Mass.).

THE SPEAKER: The question is on the amendment.

The amendment was agreed to.

§ 11.26 A motion to recommit an appropriation bill with instructions to the committee to reduce the amount of the appropriation by $50 million is in order; but the committee, if the motion is adopted, may not report the bill back to the House with an amendment proposing a change in the amendments adopted by the House.

On May 15, 1939,(11) the House was considering H.R. 6260, a War Department civil functions appropriation bill. The Clerk read as follows, and proceedings ensued as indicated below:

Mr. [D. Lane] Powers [of New Jersey] moves to recommit the bill to the Committee on Appropriations with instructions to report the same back forthwith with amendments reducing the total amount of the bill $50,000,000.

MR. [ROSS A.] COLLINS [of Mississippi]: Mr. Speaker, I make the point of order that the motion to recommit undertakes to do indirectly what cannot be done directly.

The amount carried in this bill, with these amendments, totals $305,000,000. Part of it is for the Panama Canal, part for cemeterial expense, part for the Signal Corps and Alaskan Communications Commission, part for rivers and harbors, part for flood control, and part for the United States Soldiers' Home. Of the amount of $305,000,000, $277,000,000 is for rivers and harbors and flood control, leaving only $28,000,000 for all of these other governmental activities. A reduction of $50,000,000 would take away a large part of the money carried in the two amendments voted in the House last Wednesday. A motion to recommit to do this cannot be done. This motion to recommit attempts to do indirectly what cannot be done directly. It proposes a second vote on the same propositions that were voted on last Wednesday, therefore is subject to a point of order.

THE SPEAKER:(12) The Chair may state, in connection with the point of order made by the gentleman from Mississippi, that the Chair understands the purpose of the motion to recommit, one motion to recommit always being in order after the third reading, is to give to those Members opposed to the bill an opportunity to have an expression of opinion by the House upon their proposition. It is true that under the precedents it is not in order by way of a motion to recommit to propose an amendment to an amendment previously adopted by the House, but the motion now pending does not specifically propose to instruct the Committee on Appropriations to do that. The Chair is inclined to the opinion that the motion to recommit in the form here presented is not subject to a point of order.

The Chair overrules the point of order. . . .

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11. 84 CONG. REC. 5535, 5536, 76th Cong. 1st Sess.

12. William B. Bankhead (Ala.).

Mr. [Dewey] Short [of Missouri]: Mr. Speaker, the motion is simply to reduce the bill $50,000,000.

The Speaker: The Chair understands the rule to be that the House can adopt a motion to recommit with instructions to reduce the amount of the appropriation by $50,000,000, but the committee, if this motion should be adopted, could not report the bill back to the House with an amendment proposing a change in the amendments adopted by the House.

Prohibition on Use of Appropriations

§ 11.27 The House has agreed to a recommittal motion which sought a prohibition on the use of funds in a supplemental appropriation bill (providing funds for the Department of Agriculture) to finance the export of agricultural commodities to the United Arab Republic.

On Jan. 26, 1965,(13) the House was considering House Joint Resolution 234. The Clerk read a motion to recommit and proceedings ensued as indicated below:

Mr. [Robert H.] Michel [of Illinois] moves to recommit House Joint Resolution 234 to the Committee on Appropriations with instructions to report the same back to the House forthwith with the following amendment: On page 2, line 13, strike the period at the end of the sentence and insert the following: ": *Provided,* That no part of this appropriation shall be used during the fiscal year 1965 to finance the export of any agricultural commodity to the United Arab Republic under the provisions of title I of such Act."

The previous question was ordered.

The Speaker:(14) The question is on the motion to recommit.

Mr. Michel: Mr. Speaker, on that I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 204, nays 177, not voting 53. . . .

So the motion to recommit was agreed to. . . .

The result of the vote was announced as above recorded.

Mr. [George H.] Mahon [of Texas]: Mr. Speaker, pursuant to the instructions of the House, I report back to the House, House Joint Resolution 234, with an amendment.

The Speaker: The Clerk will report the amendment. . . .

The question is on the amendment.

The amendment was agreed to.

The Speaker: The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The Speaker: The question is on the passage of the joint resolution.

The joint resolution was passed.

A motion to reconsider was laid on the table.

§ 11.28 The House adopted an amendment, reported pursuant

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13. 111 Cong. Rec. 1194, 1195, 89th Cong. 1st Sess.

14. John W. McCormack (Mass.).

to a recommittal motion, to prohibit the use of appropriations in the bill to administer any program for the sale of agricultural commodities to nations that sell supplies to North Vietnam.

On Apr. 26, 1966,(15) during consideration in the House of H.R. 14596, a Department of Agriculture appropriation bill, the following proceedings occurred:

The Clerk read as follows:

> Mr. [Paul] Findley [of Illinois] moves that the bill be recommitted to the Committee on Appropriations with instructions to report it back forthwith with the following amendment: On page 36, on line 6 strike the period, insert a colon and the following:
>
> "*Provided,* That no funds appropriated by this Act shall be used to formulate or administer programs for the sale of agricultural commodities pursuant to title I or IV of Public Law 480, Eighty-third Congress, as amended, to any nation which sells or furnishes or which permits ships or aircraft under its registry to transport to North Vietnam any equipment, materials, or commodities, so long as North Vietnam is governed by a Communist regime."

The previous question was ordered.

The Speaker:(16) The question is on the motion to recommit.

Mr. Findley: Mr. Speaker, on this vote I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 290, nays, 98, not voting 44. . . .

So the motion to recommit was agreed to. . . .

Mr. [Jamie L.] Whitten [of Mississippi]: Mr. Speaker, pursuant to the instructions of the House in the motion to recommit, I report back the bill H.R. 14596 with an amendment.

The Speaker: The Clerk will report the amendment. . . .

The question is on the amendment.

The amendment was agreed to.

The Speaker: The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The Speaker: The question is on the passage of the bill.

Mr. Whitten: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 366, nays 23, not voting 43.

Enrollment of Appropriation Bills

§ 11.29 Set out below is the form of a concurrent resolution providing that in the enrollment of general appropriation bills enacted during the remainder of a session the Clerk of the House may correct chapter, title, and section numbers.

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(15) 112 Cong. Rec. 8972, 8973, 89th Cong. 2d Sess.

(16) John W. McCormack (Mass.).

On July 4, 1952,(17) Mr. George H. Mahon, of Texas, by unanimous consent, submitted the following concurrent resolution (H. Con. Res. 239):

> *Resolved by the House of Representatives (the Senate concurring),* That in the enrollment of general appropriation bills enacted during the remainder of the second session of the Eighty-second Congress the Clerk of the House may correct chapter, title, and section numbers.

The concurrent resolution was considered and agreed to. A motion to reconsider the vote whereby the concurrent resolution was agreed to was, by unanimous consent, laid on the table.

§ 12. Points of Order; Timeliness

Parliamentarian's Note: The Committee of the Whole has no authority to delete by points of order portions of a bill referred to it by the House absent reservation of that authority in the House at the time the bill is first referred to the Calendar of the Committee of the Whole House on the state of the Union (the Union Calendar). Absent reserved authority to delete provisions in violation of clauses 2 and 6 of Rule XXI, the Committee of the Whole can merely recommend amendments to be acted upon by the House to change general appropriation bills committed thereto.

Reservation of Points of Order

§ 12.1 Points of order are ordinarily reserved against general appropriation bills prior to referral of the bills to the Committee of the Whole, i.e., when placed upon the Union Calendar, and may be reserved thereafter only by unanimous consent.

On Feb. 26, 1940,(18) the following proceedings took place:

> MR. [CLIFTON A.] WOODRUM of Virginia: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 8341) making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1940, to provide supplemental appropriations for such fiscal year, and for other purposes; and pending that motion, I ask unanimous consent that general debate shall continue for 2½ hours, to be confined to the bill and the time to be equally divided between myself and the gentleman from New York [Mr. Taber].

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17. H. JOUR. 746, 82d Cong. 2d Sess.

18. 86 CONG. REC. 1991, 76th Cong. 3d Sess.

The Speaker:[19] Is there objection to the request of the gentleman from Virginia [Mr. Woodrum]?

Mr. [John] Taber [of New York]: Mr. Speaker, reserving the right to object, has this bill been reported?

Mr. Woodrum of Virginia: Yes; it has been reported

Mr. Taber: Mr. Speaker, I desire to reserve all points of order against the bill.

The Speaker: Without objection, the gentleman from New York reserves all points of order against the bill.

There was no objection.

Parliamentarian's Note: Unanimous consent was requested since the bill had been referred to the Committee of the Whole by the Speaker when reported. That is the proper time to reserve points of order in the House against a general appropriation bill. Once the bill is referred to the Union Calendar, it is then too late absent unanimous consent.

§ 12.2 The committee chairman obtained unanimous consent that the committee have until midnight to file a report on an appropriation bill, and a Member thereafter obtained unanimous consent to reserve all points of order on the bill.

On Nov. 26, 1945,[20] the following unanimous-consent request was made:

Mr. [Clarence] Cannon [of Missouri]: Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a report on the first deficiency appropriation bill.

The Speaker:[1] Is there objection to the request of the gentleman from Missouri?

There was no objection. . . .

Mr. [Earl C.] Michener [of Michigan]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Michener: I have been on the floor all morning, but I have been advised that earlier in the day unanimous consent was given to the chairman of the Committee on Appropriations to have until midnight to file a report on the deficiency appropriation bill. I did not hear that request.

The Speaker: The request was made and the consent was granted.

Mr. Michener: The gentleman from New York [Mr. Taber], the ranking member of the Committee on Appropriations, was in the committee room, as I am advised, at the time. Had he been present and known about it, he would have asked permission to reserve all points of order on the bill.

I now ask unanimous consent to reserve all points of order on the bill.

The Speaker: Is there objection to the request of the gentleman from Michigan?

There was no objection.

Precedence Over Pro Forma Amendment

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[19] William B. Bankhead (Ala.).

[20] 91 Cong. Rec. 10984, 10993, 79th Cong. 1st Sess.

[1] Sam Rayburn (Tex.).

§ 12.3 A point of order against a paragraph in a general appropriation bill takes precedence over any amendment (including a pro forma amendment) to that paragraph.

On June 4, 1970,(2) during consideration in the Committee of the Whole of the foreign assistance appropriation bill (H.R. 17867) the following proceedings took place:

> Sec. 117. None of the funds appropriated or made available in this Act for carrying out the Foreign Assistance Act of 1961, as amended, shall be available for assistance to the United Arab Republic, unless the President determines that such availability is essential to the national interest of the United States.
>
> MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, I move to strike the last word.
>
> MR. [CLEMENT J.] ZABLOCKI [of Wisconsin]: Mr. Chairman, I was on my feet to make a point of order as to section 117 that was just read.
>
> THE CHAIRMAN:(3) The gentleman from Wisconsin has a point of order on section 117?
>
> MR. ZABLOCKI: That is correct, Mr. Chairman.
>
> THE CHAIRMAN: The Chair will hear the gentleman from Wisconsin on his point of order.
>
> MR. ZABLOCKI: Mr. Chairman, I will gladly defer to the gentleman from Texas (Mr. Mahon) if I do not lose my opportunity to make my point of order in so doing.
>
> THE CHAIRMAN: The Chair will state that the point of order takes precedence.

Priority in Recognition

§ 12.4 Members of the committee reporting a bill have priority of recognition in making points of order against proposed amendments to bills.

On Mar. 30, 1949,(4) the Committee on the Whole was considering H.R. 3838, an Interior Department appropriation bill. The Clerk read as follows, and proceedings ensued as indicated below:

> Amendment offered by Mr. [Francis H.] Case of South Dakota: On page 47, line 7, strike out the period, insert a colon and the following: "*Provided further,* That no part of these funds shall be used to build, operate, or administer transmission lines to carry power developed at Fort Randall Dam across the boundaries of the State of South Dakota in which the power is produced, unless the power so produced shall exceed the requests for power in that State."
>
> MR. [HENRY M.] JACKSON of Washington: Mr. Chairman, a point of order.
>
> MR. [CARL T.] CURTIS [of Nebraska]: Mr. Chairman, a point of order.
>
> THE CHAIRMAN:(5) The Chair recognizes the gentleman from Washington,

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2. 116 CONG. REC. 18406, 91st Cong. 2d Sess.
3. Hale Boggs (La.).
4. 95 CONG. REC. 3520, 81st Cong. 1st Sess.
5. Jere Cooper (Tenn.).

a member of the committee, to state a point of order.

Point of Order Against Two Paragraphs

§ 12.5 Because a general appropriation bill is read for amendment by paragraphs, a point of order against two consecutive paragraphs comprising a section in the bill can be made only by unanimous consent.

On June 4, 1970,(6) the Committee of the Whole was considering H.R. 17867, a foreign assistance appropriation bill. A Member stated as follows, and proceedings ensued as indicated below:

> MR. [DONALD M.] FRASER [of Minnesota]: Mr. Chairman, I move to strike the requisite number of words.
>
> Mr. Chairman, when the Clerk reads the next section, I propose to raise a point of order against both clauses (a) and (b), and I rise at this time to inquire if I can make the point of order against both clauses and have it considered at the same time.
>
> THE CHAIRMAN:(7) The Chair will state to the gentleman from Minnesota that that can be done only by unanimous consent.
>
> Is there objection to the request of the gentleman from Minnesota?
>
> MR. [OTTO E.] PASSMAN [of Louisiana]: Mr. Chairman, I object.

Assertion That Bill is Not "General" Appropriation Bill

§ 12.6 In response to a point of order based on Rule XXI clause 2, it was asserted that the bill under consideration was not a "general" appropriation bill and therefore not subject to the rule; but the Chair ruled that such assertion should have been made when the bill was first taken up as a privileged general appropriation bill and was not timely made after the stage of amendment was reached.

On June 21, 1939,(8) the Committee of the Whole was considering an appropriations bill.(9) A point of order was raised against the following amendment:

> Amendment offered by Mr. [Ross A.] Collins [of Mississippi]: Page 10, line 11, after the word "thereof", insert "*Provided further,* That of the amounts herein appropriated and authorized to be obligated for the procurement of 2,290 airplanes, obligations shall not be incurred for the procurement of more than 1,007 airplanes unless and until the President shall determine that the interests of national defense require the procurement of any portion or all of the number in excess of 1,007."

A point of order having been raised, the following exchange took place:

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6. 116 CONG. REC. 18405, 91st Cong. 2d Sess.
7. J. Caleb Boggs (Del.).
8. 84 CONG. REC. 7673, 76th Cong. 1st Sess.
9. H.R. 6791, supplemental military establishment appropriation of 1940.

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, there are two points on which this is in order. In the first place, it proposes retrenchment; and, if so, comes under the Holman Rule. In the second place, the bill before us is not a general appropriation bill. The rule under which the point of order is made is rule XXI, section 2, and that rule specifically says:

> No appropriation shall be reported in any general appropriation bill. . . . For any expenditure not previously authorized by law. . . . Nor shall any provision in any such bill or amendment thereto changing existing law be in order—

And so forth. The limitations apply only to recognized general appropriation bills. In Cannon's Procedure, which I have in my hand, on page 20, this point is specifically treated, and on page 20 the statement is flatly made:

> The rule applies to general appropriation bills only.

THE CHAIRMAN:(10) The Chair is ready to rule. The argument just made, if containing merit, should have been made earlier, when the bill was taken up. It has been reported as a general appropriation bill and so considered, and was reported under the rules as a general appropriation bill.

Point of Order That Paragraph Has Been Passed

§ 12.7 A point of order that a paragraph has been passed and is therefore not subject to amendment will not lie where a Member was on his feet seeking recognition to offer an amendment, while the Clerk continued to read.

On Apr. 3, 1957,(11) The Committee of the Whole was considering H.R. 6287, the Departments of Labor and Health, Education, and Welfare appropriation bill. The following proceedings took place:

THE CHAIRMAN:(12) For what purpose does the gentleman from North Carolina rise?

MR. [HAROLD D.] COOLEY [of North Carolina]: Mr. Chairman, I offer an amendment which is at the Clerk's desk.

THE CHAIRMAN: The Clerk will report the amendment.

MR. [HAMER H.] BUDGE [of Idaho]: Mr. Chairman.

THE CHAIRMAN: For what purpose does the gentleman from Idaho rise?

MR. BUDGE: Mr. Chairman, I have an amendment.

THE CHAIRMAN: The gentleman from North Carolina has just been recognized to offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Cooley: On page 32, after line 21, insert the following paragraph: "Grants to States for training public-welfare personnel: For grants to States for increasing the number of adequately trained public-welfare personnel available for work in the public-assistance programs as authorized by section 705 of the Social Security Act, as amended, $2,500,000."

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10. Schuyler Otis Bland (Va.).

11. 103 CONG. REC. 5034–36, 85th Cong. 1st Sess.

12. Aime J. Forand (R.I.).

MR. [ALBERT P.] MORANO [of Connecticut]: Mr. Chairman, I make a point of order. I believe that section was passed, but I will reserve the point of order.

MR. COOLEY: It was not passed. My amendment was at the Clerk's desk, but the Clerk was reading so rapidly that he passed that section inadvertently. . . .

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not in order at this point in the bill, the Clerk having read down to line 2 on page 33; and, furthermore, that it is not authorized by law.

MR. COOLEY: May I be heard on the point of order, Mr. Chairman?

THE CHAIRMAN: The Chair will hear the gentleman.

MR. COOLEY: Do I understand the gentleman to base his point of order upon the ground that this amount was not authorized by law?

MR. TABER: Upon the ground that the amendment is not in order at the point where the Clerk had finished reading.

THE CHAIRMAN: The Chair is ready to rule on that point. The gentleman from North Carolina was on his feet while the Clerk was reading. The Clerk continued to read before the gentleman had a chance to offer his amendment.

The gentleman was entitled to recognition.

The Chair overrules the point of order.

After Reading of Paragraph

§ 12.8 The time for making points or order against items in an appropriation bill is after the House has resolved itself into the Committee of the Whole and after the paragraph containing such items has been read for amendment.

On July 5, 1945,(13) the following proceedings took place in the House:

MR. [CLARENCE] CANNON of Missouri: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3649), making appropriations for war agencies for the fiscal year ending June 30, 1946, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent to dispense with general debate in the Committee of the Whole.

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER:(14) The gentleman will state it.

MR. MARCANTONIO: Mr. Speaker, if, as in this case, the bill contains many items that are subject to a point of order, is it not in order to make a point of order against sending this bill to the Committee of the Whole?

THE SPEAKER: Under the rules of the House, it is not.

MR. MARCANTONIO: Then the procedure to make the point of order is to make it as the bill is being read for amendment?

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13. 91 CONG. REC. 7226, 79th Cong. 1st Sess.
14. Sam Rayburn (Tex.).

The Speaker: As the paragraphs in the bill are reached.

§ 12.9 The proper time to raise a point of order against language in a paragraph of a general appropriation bill is after the paragraph has been read but before debate starts thereon. (Note: The Chair, however, will not permit the reading of an amendment to preclude a point of order made by a Member who has shown due diligence and who sought recognition at the proper time.)

On May 24, 1960,(15) during consideration in the Committee of the Whole of a general appropriation bill, the following proceedings occurred:

The Clerk read as follows:

Construction, General

> For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by law. . . .

Mr. [Fred] Wampler [of Indiana]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Wampler: On page 4, line 16, strike the amount "$662,622,300" and insert in lieu thereof the amount "$662,807,300".

Mr. [H. R.] Gross [of Iowa]: Mr. Chairman, a parliamentary inquiry.

The Chairman:(16) The gentleman will state it.

Mr. Gross: I have a point of order against the language to be found on this page. Will the discussion of this amendment abrogate my right to make a point of order?

The Chairman: The gentleman is correct, it would. If the gentleman has a point of order, it would have to be urged at this point.

Mr. Gross: The gentleman is trying to obtain recognition from the Chair to make a point of order.

The Chairman: The Chair recognizes the gentleman to make the point of order.

§ 12.10 A point of order against language in a paragraph of an appropriation bill comes too late after the paragraph has been read and amendments thereto have been considered.

On May 25, 1959,(17) during consideration in the Committee of the Whole of a general appropriation bill (H.R. 7176) the following proceedings took place:

Mr. [Charles A.] Vanik [of Ohio]: Mr. Chairman, I make a point of order.

The Chairman:(18) The gentleman will state it.

Mr. Vanik: I make a point of order to the language on page 9, lines 5 and 6 "from the Baltic countries."

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15. 106 Cong. Rec. 10979, 10980, 86th Cong. 2d Sess.
16. Hale Boggs (La.).
17. 105 Cong. Rec. 9013, 86th Cong. 1st Sess.
18. Carl Albert (Okla.).

The Chairman: The Chair must advise the gentleman that the point of order comes too late. That section has been read and amendments to the section have been considered. The point of order is overruled.

The Clerk will read.

§ 12.11 A point of order against language in a paragraph of an appropriation bill comes too late after the paragraph has been read and an amendment thereto has been agreed to.

On June 13, 1961,(19) the Committee of the Whole was considering H.R. 7577, a bill making appropriations for the executive office and the Department of Commerce. The Clerk read as follows, and proceedings ensued as indicated below:

> For necessary expenses, not otherwise provided for, of the Small Business Administration, including hire of passenger motor vehicles, $6,750,000. . . .

Mr. [Wright] Patman [of Texas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Patman: On page 28, lines 11 and 12, after "exceed", strike out "$17,524,000" and insert "$18,447,000".

Mr. [George W.] Andrews [of Alabama]: Mr. Chairman, the committee accepts the amendment.

The Chairman:(20) The question is on the amendment offered by the gentleman from Texas.

The amendment was agreed to.

The Clerk read as follows: . . .

> For necessary expenses of the Subversive Activities Control Board, including services as authorized by section 15 of the Act of August 2, 1946 (5 U.S.C. 55a) . . . $305,000.

Mr. [H. R.] Gross [of Iowa]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Gross: Is a point of order to the language on page 29 in order?

The Chairman: If it is to language preceding line 5 on page 29 it is not in order.

Mr. Gross: It does precede line 5 on page 29. The Clerk did not read the language on page 29, lines 1 to 5.

The Chairman: The Clerk has read and an amendment has been adopted to the paragraph starting on page 28, line 8 and ending on page 29, line 5.

Mr. Gross. Then a point of order to the language on page 29, line 5, is not in order?

The Chairman: The Chair will advise the gentleman it comes too late at this time.

Bill Considered as Read

§ 12.12 Where the remainder of a general appropriation bill has been considered as read and open to amendment at any point by unanimous consent, points of order against any provision in that portion of the bill

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19. 107 Cong. Rec. 10177, 10178, 87th Cong. 1st Sess.

20. Carl Albert (Okla.).

must be made prior to debate or amendment to the remainder of the bill.

On June 26, 1972,(1) during consideration in the Committee of the Whole of a general appropriation bill (H.R. 15586) the following proceedings took place:

> THE CHAIRMAN:(2) The Clerk will read.
>
> The Clerk proceeded to read the bill.
>
> MR. [JOSEPH L.] EVINS of Tennessee: Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read in full and open to amendment at any point.
>
> THE CHAIRMAN: Is there objection to the request of the gentleman from Tennessee?
>
> MR. [ROBERT H.] MICHEL [of Illinois]: Mr. Chairman, reserving the right to object, would that foreclose the making of a point of order against a point that has not been reached in the bill?
>
> A point of order can still be made?
>
> THE CHAIRMAN: Yes.
>
> MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, a further parliamentary inquiry.
>
> Mr. Chairman, is it not necessary that the point of order be made now?
>
> Having dispensed with the reading of the bill, the point of order has to be made now?
>
> THE CHAIRMAN: If the unanimous-consent request of the gentleman from Tennessee is approved, the gentleman from Iowa is correct, the point of order should be made at that time.

Points of Order Against Amendments

§ 12.13 Points of order against proposed amendments must be made immediately after the amendment is read; after a Member has been granted 15 minutes to address the Committee of the Whole on his amendment, it is too late to make a point of order against it.

On Apr. 17, 1943,(3) the Committee of the Whole was considering H.R. 2481, an Agriculture Department appropriation bill. The Clerk read as follows, and proceedings ensued as indicated below:

> Amendment offered by Mr. [Clarence] Cannon of Missouri: On page 65, line 6, after the colon, insert: "*Provided further,* That no part of said appropriation or any other appropriation carried in this bill shall be used for incentive payments or subsidies or for any expense for or incident to the payment of incentive payments or any other form of subsidy payments."
>
> MR. CANNON of Missouri: Mr. Chairman, I ask unanimous consent to speak for 15 minutes.
>
> THE CHAIRMAN:(4) Is there objection to the request of the gentleman from Missouri?

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1. 118 CONG. REC. 22428, 92d Cong. 2d Sess.
2. Wayne N. Aspinall (Colo.).
3. 89 CONG. REC. 3510, 78th Cong. 1st Sess.
4. William M. Whittington (Miss.).

There was no objection.

The Chairman: The gentleman is recognized for 15 minutes.

Mr. [**Usher** L.] **Burdick** [of North Dakota]: Mr. Chairman, I reserve a point of order on the amendment.

The Chairman: The point of order comes too late.

Mr. [**John**] **Taber** [of New York]: The regular order, Mr. Chairman.

The Chairman: The point of order comes too late. The gentleman has been recognized and has been granted permission to proceed for 15 minutes. The gentleman from Missouri is recognized.

Appropriations in Legislative Bills

§ 12.14 While Rule XXI clause 4 (now clause 5) provides that points of order against appropriations in legislative bills may be raised at any time, the practice of the House is that such points of order should be raised when the bill is read for amendment.

On Mar. 18, 1946,[5] the Committee of the Whole was considering H.R. 5407, a bill granting certain powers to the Federal Works Administration. The following proceedings took place:

> Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 5407, with Mr. [Fadjo] Cravens [of Arkansas] in the chair.

Mr. [**Francis** H.] **Case** of South Dakota: Mr. Chairman, I desire to make a point of order against portions of the bill in paragraphs (a), (b), and what was originally (c), proposed now to be made (b) by a committee amendment, on the ground that they constitute appropriations. Under the rule forbidding the reporting of appropriations by a committee without jurisdiction, I make a point of order against the consideration of the language on page 2, beginning in line 4, reading:

> And the unobligated balances of appropriations heretofore made for the construction of projects outside the District of Columbia.

Also on page 2, beginning in line 23, the last sentence of that paragraph which reads:

> Funds for this purpose are hereby made available from the unobligated balances of appropriations heretofore made for the construction of buildings outside the District of Columbia.

Under the rule, a point of order would lie against consideration of those portions of the bill, and I make such a point of order at this time.

Mr. [**Fritz** G.] **Lanham** [of Texas]: Mr. Chairman, the appropriations referred to by the gentleman from South Dakota [Mr. Case] have already been made, and this money has been appropriated.

The Chairman: The Chair believes that the proper time to raise such points of order is not at the present time, but when the bill is read under the 5-minute rule for amendment.

Mr. Case of South Dakota: Of course, I know that is frequently done, but I think the rule authorizes the point of order to be made at any time during consideration of the bill. . . .

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[5] 92 Cong. Rec. 2365, 79th Cong. 2d Sess.

THE CHAIRMAN: The Chair is informed that under the previous practice of the House, such points of order should be raised when the bill is read for amendment.

MR. CASE of South Dakota: I have no objection to presenting them later, but I do not want to lose my right to present them by failure to raise them at this time.

THE CHAIRMAN: The gentleman will not lose any of his rights.

§ 12.15 Points of order against appropriations in legislative bills may be raised at any time, even though debate has taken place on the merits of the proposition.

On June 17, 1937,(6) the Committee of the Whole was considering H.R. 7472, a District of Columbia tax bill. The Clerk read as follows, and proceedings ensued as indicated below:

> The Commissioners of the District of Columbia are hereby authorized and empowered, in their discretion, to fix, prescribe, and collect fees for the parking of automobiles. . . .
>
> The Commissioners of the District of Columbia are further authorized and empowered, in their discretion, to purchase, rent, and install such mechanical parking meters or devices as the Commissioners may deem necessary or advisable to insure the collection of such fees. . . .

Mr. [THOMAS] O'MALLEY [of Wisconsin]: I make the point of order that this section appropriates money out of fees to be collected, and therefore it is appropriation on a legislative bill. Line 24 provides that the purchase price of these machines shall be paid from the fees collected and the remainder of the fee shall be paid into the Treasury.

MR. [JACK] NICHOLS [of Oklahoma]: Mr. Chairman, I make the point of order that the point of order comes too late. The section has been debated and amendments have been offered, and an amendment to strike out the section has been offered.

MR. O'MALLEY: I was attempting to get recognition from the very beginning.

THE CHAIRMAN:(7) The Chair is ready to rule. The last sentence of section 4, rule 21, provides as follows:

> A question of order on an appropriation in any such bill, joint resolution, or amendment thereto may be raised at any time.

It is the opinion of the Chair that the point of order is properly raised at this time and that this is purely an appropriation, and, therefore, that language, as indicated in the gentleman's point of order, is ruled out of order.

The Chair sustains the point of order.

§ 12.16 A point of order under Rule XXI clause 4 [(now clause 5) against an appropriation in a bill reported by a legislative

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6. 81 CONG. REC. 5915–18, 75th Cong. 1st Sess. See also 99 CONG. REC. 10398, 83d Cong. 1st Sess., July 29, 1953 (proceedings relating to H.R. 6016).

7. James M. Mead (N.Y.).

committee] "may be raised at any time"; and in response to an inquiry the Chair advised a Member that if the offending language was not stricken by amendment it could still be reached by a point of order.

On May 18, 1966,[8] during consideration in the Committee of the Whole of an amendment to H.R. 14544, the Participation Sales Act of 1966, proceedings occurred as follows:

> Committee amendment: On page 3, line 3 strike out "Notwithstanding any other provision of law," and insert: "Subject to the limitations provided in paragraph (4) of this subsection."
>
> The committee amendment was agreed to.
>
> MR. [CHARLES R.] JONAS [of North Carolina]: Mr. Chairman, a parliamentary inquiry.
>
> THE CHAIRMAN:[9] The gentleman will state the parliamentary inquiry.
>
> MR. JONAS: Mr. Chairman, I have a point of order against the language to be amended by the committee amendment. I would not insist on the point of order if I knew the committee amendment would be adopted.
>
> Should the committee amendment be rejected, I inquire of the Chair if I then might be able to lodge my point of order against the language stricken by the amendment.
>
> THE CHAIRMAN: The Chair will state to the gentleman from North Carolina that the Chair will undertake to protect the gentleman's right to raise points of order under clause 4 of rule XXI at any time during the consideration of this section of the bill whether the committee amendments are adopted or rejected.

§ 12.17 A point of order having been raised in the Committee of the Whole against a bill reported by a legislative committee, on the ground that it proposed an appropriation contrary to Rule XXI clause 4 (now clause 5), the Committee rose pending decision by the Chair on the point of order.

On June 4, 1957,[10] the Committee of the Whole was considering H.R. 6974, a bill to extend the Agricultural Development and Assistance Act of 1954. The following proceedings took place:

> MR. [JOHN J.] ROONEY [of New York]: Mr. Chairman, I rise to a point of order against the entire bill, H.R. 6974, on the ground that it is a bill from a committee not having authority to report an appropriation. . . .
>
> MR. [HAROLD D.] COOLEY [of North Carolina]: . . . I am a little bit apprehensive that the point of order may be sustained if the Chair is called upon to rule on it. But, I think it would be very unfortunate for us to delay final action on the bill, and in the circumstances we have no other alternative other

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[8] 112 CONG. REC. 10894, 89th Cong. 2d Sess.

[9] Eugene J. Keogh (N.Y.).

[10] 103 CONG. REC. 8318, 8319, 85th Cong. 1st Sess.

than to move that the Committee do now rise, and so, Mr. Chairman, I make that motion.

THE CHAIRMAN:(11) The Chair is prepared to rule on the point of order, but the motion offered by the gentleman from North Carolina that the Committee do now rise is in order, and the Chair will put the question.

The question is on the motion offered by the gentleman from North Carolina.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Hays of Arkansas, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6974) to extend the Agricultural Trade Development and Assistance Act of 1954, and for other purposes, had come to no resolution thereon.

Parliamentarian's Note: In this case the language of the bill was in fact in violation of Rule XXI clause 4 (now clause 5), and the Member in charge of the bill moved that the Committee rise so application could be made to the Committee on Rules for a resolution waiving points of order against the bill. See House Resolution 274. However, a point of order under this rule applies only to offensive language in the bill, and not against consideration of the entire bill (see 7 Cannon's Precedents § 2142; 121 CONG. REC. 12049, 94th Cong. 1st Sess., Apr. 28, 1975). If the entire language of the bill were ruled out in Committee of the Whole, the enacting clause would still exist and an amendment would still be in order if germane to the title of the bill and not containing an appropriation.

Point of Order Against Senate Bill

§ 12.18 Where language in violation of Rule XXI clause 4 (now clause 5) is stricken from a Senate bill in Committee of the Whole by a point of order, the Chairman reports that fact to the House.

On July 31, 1957,(12) the Committee of the Whole was considering S. 1865, a bill providing for development and modernization of the national system of navigation and traffic control facilities. At one point, proceedings were as follows:

THE CHAIRMAN:(13) The time of the gentleman from Michigan has expired.

All time has expired.

The Committee will rise.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Mahon, Chairman of the Committee of the Whole House on the State of the Union, stated that that Committee

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11. Brooks Hays (Ark.).

12. 103 CONG. REC. 13181, 13182, 85th Cong. 1st Sess.

13. George H. Mahon (Tex.).

having had under consideration the bill (S. 1856) to provide for the development and modernization of the national system of navigation and traffic-control facilities to serve present and future needs of civil and military aviation, and for other purposes, pursuant to House Resolution 361, he reported the same back to the House.

The Chairman also reported that the language in the bill on page 7, line 12, reading as follows: "and unexpended balances of appropriations, allocations, and other funds available or" was stricken out on a point of order.(14)

§ 13. House-Senate Relations

The general subject of relations between the House and Senate, and that of House-Senate conferences, are discussed in other chapters.(15) This section discusses a few issues that arise specifically with respect to appropriations.

Under the Constitution, it is exclusively the prerogative of the House to originate revenue bills. Article I, section 7, clause 1, provides that,

> All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.(16)

The scope of this prerogative is discussed in detail elsewhere.(17) (Because questions relating to the prerogative of the House to originate revenue legislation involve interpretation of the Constitution rather than House rules, they are decided by the House rather than the Chair.)(18)

The House has traditionally taken the view that this prerogative encompasses the sole power to originate at least the general appropriation bills. Mr. Clarence Cannon, of Missouri, has observed:(19)

> Under immemorial custom the general appropriation bills, providing for a number of subjects(20) as distinguished from special bills appropriating for single, specific purposes,(1) originate in

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(14) *Parliamentarian's Note:* The resulting change in the Senate bill was treated as an amendment of the Senate bill and so engrossed and messaged to the Senate, though not voted upon as a separate amendment.

(15) See Ch. 32, House-Senate Relations, infra; Ch. 33, House-Senate Conferences, infra. See also Ch. 13, Powers and Prerogatives of the House, supra.

(16) See *House Rules and Manual* § 102 (1981).

See also Constitution of the United States of America: Analysis and Interpretation, S. Doc. No. 92-82, 92d Cong. 2d Sess. pp. 125, 126 (1972).

(17) See Ch. 13 §§ 13-20, supra.

(18) See Ch. 13 § 13, supra.

(19) Cannon's Procedure (1959) p. 20.

(20) 4 Hinds' Precedents §§ 3566-68.

(1) 8 Cannon's Precedents § 2285.

> the House of Representatives and there has been no deviation from that practice since the establishment of the Constitution.

Following the view expressed by Mr. Cannon, the House has returned Senate-passed general appropriation bills.(2)

The Senate has not always accepted the view that the House has the exclusive right to originate appropriation measures.(3)

Issues sometimes arise with respect to the implications of House rules barring, in specified circumstances, unauthorized appropriations and legislation on general appropriation bills,(4) and appropriations on legislative bills.(5)

Points of order under the House rule prohibiting appropriations on legislative bills(6) have been successfully directed against items of appropriation in Senate bills, for example,(7) but not against a Senate amendment to an appropriation bill.(8) Procedural remedies against the inclusion of appropriations in Senate bills also include possible points of order under section 401 of the Congressional Budget Act (if the Senate provision can be construed as new spending authority not subject to amounts specified in advance in appropriations acts where budget authority has not been provided in advance; section 401 is not applicable where money has already been appropriated and is in a revolving fund).

The House may also return Senate bills which contain appropriations to the Senate by asserting the constitutional prerogative of the House to originate "revenue" measures, which, as noted above, are construed to include at least "general appropriation bills."

A rule of the House(9) provides:

> No amendment of the Senate to a general appropriation bill which would be in violation of the provisions of clause 2 of Rule XXI, if said amendment had originated in the House,(10)

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2. See Ch. 13 § 20.3, supra.
3. See Ch. 13 § 20.1, supra.
4. See Ch. 26, infra, for general discussion of Rule XXI clause 2.
5. See § 4, supra, for general discussion of appropriations on legislative bills.
6. Rule XXI clause 5, *House Rules and Manual* § 846 (1981).
7. See § 13.16, infra.
8. See 7 Cannon's Precedents § 1572. Rule XXI clause 5 does apply to an amendment in the House to a Senate amendment to a House legislative bill. See *Procedure in the U.S. House of Representatives* Ch. 25 § 3.29 (4th ed.).
9. Rule XX clause 2, *House Rules and Manual* § 829 (1981).
10. Rule XXI clause 2, *House Rules and Manual* § 834 (1981), prohibits unauthorized appropriations and legislation on general appropriation bills. For further discussion of unauthor-

> nor any amendment of the Senate providing for an appropriation upon any bill other than a general appropriation bill, shall be agreed to by the managers on the part of the House unless specific authority to agree to such amendment shall be first given by the House by a separate vote on every such amendment.

Under this rule, where a House legislative measure has been committed to conference, and the conferees agree to a Senate amendment appropriating funds, the conference report thereon may be ruled out.(11) In the 96th Congress, a point of order that House conferees had violated clause 2 of Rule XX by agreeing to a provision in a Senate amendment to a House legislative bill, directing the use of funds already appropriated for a new purpose, was conceded, and the conference report was ruled out of order.(12) But a point of order against an appropriation in a conference report on a legislative bill will only lie under the rule if that provision was originally contained in a Senate amendment and if House conferees were without specific authority to agree to that amendment, and will not lie against a provision permitted by the House to remain in its bill.(13) Moreover, since the rule applies only to Senate amendments which are sent to conference, it does not apply to appropriations contained in Senate legislative bills.(14)

Where an appropriation for a certain purpose has been enacted into law, a provision in a legislative bill authorizing the use, without a subsequent appropriation, of those funds for a new purpose constitutes an appropriation prohibited by clause 5 of Rule XXI, and if in a Senate amendment included in a conference report violates clause 2 of Rule XX (prohibiting House conferees from agreeing to such a provision absent authority from the House).(15)

Prerogatives of House and Senate

§ 13.1 A discussion took place in the House with regard to the prerogatives of the House in initiating the forms of general appropriation bills, during debate on a motion that the House instruct its managers of a conference committee not to agree to a Senate amendment to

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ized appropriations and legislation on general appropriation bills, generally, and Senate amendments that violate the rule, see Ch. 26, infra.

(11) See §§ 13.8, 13.9, infra.

(12) See § 13.9, infra.

(13) See § 13.12, infra.

(14) See § 13.11, infra.

(15) See *Procedure in the U.S. House of Representatives* Ch. 25 § 3.30 and Ch. 33 § 15.13. (4th ed.).

a War Department appropriation bill.

On June 24, 1937,(16) during consideration of the War Department appropriation bill of 1938, the following proceedings took place:

Mr. [J. Buell] Snyder of Pennsylvania: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H.R. 6692, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate. . . .

The Speaker:(17) Is there objection? . . .

Mr. [Clarence] Cannon of Missouri: Mr. Speaker, by direction of the Committee on Appropriations, I submit a motion, which I send to the desk.

The Clerk read as follows:

> Mr. Cannon of Missouri moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill H.R. 6692, the Military Appropriation Act, 1938, be instructed not to agree to the Senate amendments to such bill numbered 47 to 77, inclusive, and 80, and not to agree to the amendment of the Senate amending the title of such bill.

Mr. Cannon of Missouri: Mr. Speaker, the Constitution confers upon the House and the Senate respectively certain exclusive prerogatives. Among those reserved to the House by the Constitution is the right to originate revenue bills, and from the beginning of the Government the House has asserted and successfully maintained that the right to originate revenue bills also involves the right to initiate general appropriation bills. That has been the uniform practice, and in keeping with that doctrine the House has formulated the general appropriation bills since the establishment of the Government. Of course, the right to originate general appropriation bills necessarily includes the right to determine the form and the manner in which they shall be presented, and from the beginning the number and scope of the various annual supply bills have been determined by the House with the acquiescence of the Senate. Only on one or two rare occasions has this right of the House been questioned, and in each such instance the Senate has promptly disavowed any intention of infringing on the constitutional prerogatives of the House and yielded without contention.

The last instance was in the second session of the Sixty-second Congress and was the occasion for an exhaustive study of the subject by Hon. John Sharp Williams, formerly minority leader of the House and at the time a member of the Senate, which was published as a Senate document and which so conclusively confirmed the contention of the House that its right to originate the general supply bills and determine their form had not since been

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16. 81 Cong. Rec. 6304-06, 75th Cong. 1st Sess.

    For further discussion of the powers of the two Houses with respect to revenue and appropriation measures, see Ch. 13, supra. See also Chs. 32 and 33, infra, for discussion of House-Senate relations, conferences, and related matters. And see § 13.2, infra.

17. William B. Bankhead (Ala.).

challenged until the receipt just now of a message from the Senate informing the House that the Senate has assumed the right to combine the two War Department appropriation bills by attaching the nonmilitary bill to the military bill as an amendment. . . .

The motion offered proposes [that House conferees be instructed] to decline to agree to the amendment by which the two bills have been merged or to any perfecting amendment which may have been made to the text of the nonmilitary bill. Under such instruction, House conferees will be at liberty to consider and agree in full on the final text of the War Department appropriation bill providing for military activities and the Senate may then message over as a separate bill the nonmilitary bill, as amended by the Senate, and the House will appoint conferees to meet with Senate conferees on the disagreeing votes of the two Houses on the bill as originated by the House of Representatives.

The motion was agreed to.

§ 13.2 The Senate receded from its amendments which proposed to attach a nonmilitary appropriation bill to a military activities appropriation bill and in so doing discussed the role of the Senate in amending general appropriation bills of the House.

On July 1, 1937,[18] the following proceedings took place in the Senate during consideration of a conference report on H.R. 6692 (appropriations for the military establishment):

Mr. [Royal S.] Copeland [of New York]: Mr. President, I am about to move the adoption of the report, but before doing so I think an explanation should be made to the Senate. I am sure that the matter which I shall present will be of interest to every Senator, because it has to do with the rights of the Senate regarding appropriation bills.

During the 15 years of my membership in the Senate, and for a long time prior thereto, it has been the custom to embody all appropriations for the Military Establishment in one bill. This year the House . . . undertook to . . . separate the appropriations and embody them in two bills, one devoted to the strictly military activities . . . and a second to the nonmilitary activities of the Government. . . .

The Senate Committee on Appropriations decided to blend the bills and to present them to the Senate as they have been presented through many years. Explanation was made to the Senate, and the Senate, by unanimous vote, decided to accept and act upon the bill in the usual form.

After discussing the response of the House, and noting the existence of divergent views of the respective prerogatives of the Houses relating to appropriation bills and their form, the Senator stated:

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[18] 81 Cong. Rec. 6652–54, 75th Cong. 1st Sess.

For further discussion of the powers of the two Houses with respect to revenue and appropriation measures, see Ch. 13, supra. See also Chs. 32 and 33, infra, for discussion of House-Senate relations, conferences, and related matters.

> Of course, we do not concede . . . that the Constitution confers upon the House any such right to initiate general appropriation bills. . . .
>
> Mr. President, I am instructed by the Committee on Appropriations to say that we challenge the contention that it is the exclusive right of the House to determine the form and number of appropriation bills.

The Senator, however, noted the existence of special circumstances in the present case, and indicated he would therefore move that the conference report be agreed to. The conference report was accordingly agreed to. The following proceedings then took place:

> Mr. Copeland: I now move that the Senate agree to the amendments of the House to the amendments of the Senate numbered 24, 26, and 79.
>
> The motion was agreed to.
>
> Mr. Copeland: I now move that the Senate recede from its amendments still in disagreement, and its amendment to the title of the bill.
>
> The motion was agreed to.
>
> Mr. [J. W.] Robinson [of Utah]: Mr. President, I should like to ask the Senator from New York to tell the Senate the status of the military appropriations, and the status of the nonmilitary appropriations. In what condition does this action leave them?
>
> Mr. Copeland: Mr. President, title I of the Senate bill, which is the military part, has now been agreed to by both Houses, and on my motion, just made, we receded from the amendments which covered the nonmilitary appropriations.
>
> I now wish to present to the Senate for immediate action House bill 7493, as amended by the Senate committee and by the Senate to cover the nonmilitary item, so that the House will be in the position of having two bills, as it desires.
>
> Mr. Robinson: In other words, that puts the Senate in the position of completely yielding to the House?
>
> Mr. Copeland: Yes.

Reference of Bill to Committee on Appropriations

§ 13.3 The Speaker announces to the House that he has referred a general appropriation bill with Senate amendments thereto to the Committee on Appropriations.

On July 2, 1945,(19) Speaker Sam Rayburn, of Texas, stated as follows:

> The Speaker: The Chair desires to announce that he has referred the bill H.R. 3368, the war agencies bill, with Senate amendments thereto, to the Committee on Appropriations.

Parliamentarian's Note: While the Speaker has this discretionary authority to refer Senate amendments to any bill under Rule

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19. 91 Cong. Rec. 7142, 79th Cong. 1st Sess.

XXIV clause 2, it is seldom exercised.

Conferees for Separate Chapters of Bill

§ 13.4 The Speaker has appointed a series of conferees for separate chapters of an appropriation bill.

On July 27, 1955,(1) a Member addressed Speaker Sam Rayburn, of Texas, as follows, and proceedings ensued as indicated below:

> Mr. [Clarence] Cannon [of Missouri]: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7278) making supplemental appropriations for the fiscal year ending June 30, 1956, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.
>
> The Speaker: Is there objection to the request of the gentleman from Missouri? [After a pause.] The Chair hears none and appoints the following conferees: Messrs. Cannon and Taber; and on chapter I, Messrs. Whitten, Marshall, and H. Carl Anderson; on chapter II, Messrs. Preston, Thomas, and Bow; on chapter III, Messrs. Mahon, Sheppard, Sikes, Wigglesworth, Scrivner, and Ford; on chapter IV, Messrs. Passman, Gary, and Wigglesworth.

§ 13.5 In appointing conferees on the general appropriation bill, 1951, the Speaker appointed a set of conferees for each chapter of the bill, and four Members to sit in the conference on all chapters.

On Aug. 7, 1950,(2) a Member addressed Speaker Sam Rayburn, of Texas, and the following proceedings ensued:

> Mr. [Clarence] Cannon [of Missouri]: Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill H.R. 7786, an act making appropriations for the support of the Government for the fiscal year ending June 30, 1951, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and ask for a conference with the Senate.
>
> The Speaker: Is there objection to the request of the gentleman from Missouri? [After a pause.] The Chair hears none and appoints the following conferees.
>
> Managers on the part of the House:
>
> Messrs. Cannon, Rabaut, Norrell, Taber, and on Chap. I, Messrs. Bates of Kentucky, Yates, Furcolo, Stockman, and Wilson of Indiana; on Chap. II, Messrs. McGrath, Kirwan, Andrews, Canfield, and Scrivner; on Chap. III, Messrs. Rooney, Flood, Preston, Stefan, and Clevenger. . . .
>
> Mr. [Francis H.] Case of South Dakota: Mr. Speaker, a parliamentary inquiry.
>
> The Speaker: The gentleman will state it.
>
> Mr. Case of South Dakota: Will the chairman take a minute to explain

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1. 101 Cong. Rec. 11686, 84th Cong. 1st Sess.

2. 96 Cong. Rec. 11894, 11895, 81st Cong. 2d Sess.

how the conferees will operate under this arrangement?

MR. CANNON: Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

THE SPEAKER: Is there objection to the request of the gentleman from Missouri?

There was no objection.

MR. CANNON: Mr. Speaker, we expect to go to conference tomorrow morning at 10 o'clock. The bill will be taken up by chapters seriatim. As a chapter is reached the entire subcommittee which wrote that particular chapter, and which therefore is more familiar with it than anyone else on the committee, along with the other managers on the part of the House, will take up the chapter with the Senate conferees.

MR. CASE of South Dakota: This means, then, that the four Members who were first named will sit through the entire conference.

MR. CANNON: They are the ranking members on the central subcommittee which reported the bill to the House and will sit with the respective subcommittees throughout the conference.

MR. CASE of South Dakota: And the Members who are assigned to a particular chapter will receive notification as their particular chapter is approached?

MR. CANNON: When a chapter is taken up, the conferees on the next succeeding chapter will be notified. We hope to proceed with as little delay as possible, subject always to the approval of the managers on the part of the Senate.

Agreement as to Selection of Conference Chairman

§ 13.6 An agreement was made between the House and the Senate Committees on Appropriations with respect to selecting a conference chairman.

On July 19, 1962,(3) Mr. Clarence Cannon, of Missouri, stated as follows:

> Mr. Speaker, each branch of Congress in conference has group autonomy. The selection of the conference chairman is procedural for orderly functioning of the conference. Realizing this, the question of the selection of the conference chairman for the present session of Congress shall be left to the decision of the two subcommittee chairmen.
>
> It is agreed by the joint committee on behalf of the full Committees on Appropriations of the Senate and House of Representatives that for this session only the subcommittee chairmen of each body shall decide who shall act as chairman of the conference. It is further agreed that the chairmen of the Senate and House Committees on Appropriations appoint representatives of each committee to serve as a joint committee to study all the issues involved and to report in January 1963 their recommendations.

Appropriations on Legislative Bills—Duty of Conferees

§ 13.7 Conferees of the House may not in conference agree to a Senate amendment providing

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3. 108 CONG. REC. 14133, 14134, 87th Cong. 2d Sess.

for an appropriation upon any other than a general appropriation bill without first having secured specific authority from the House to do so.

On May 22, 1936,[4] a Member addressed Speaker Joseph W. Byrns, of Tennessee, as follows, and proceedings ensued as indicated below:

> MR. [JAMES M.] MEAD [of New York]: Mr. Speaker, I call up the conference report on the bill (H.R. 9496) to protect the United States against loss in the delivery through the mails of checks in payment of benefits provided for by laws adminstered by the Veterans' Administration, and I ask unanimous consent that the statement may be read in lieu of the report.
>
> The Clerk read the title of the bill.
>
> MR. [JAMES P.] BUCHANAN [of Texas]: Mr. Speaker, I make a point of order on the conference report that it includes an appropriation which is contrary to the rules of the House and the Senate. . . .
>
> THE SPEAKER: The gentleman from New York [Mr. Mead], chairman of the Committee on the Post Office and Post Roads, presents a conference report signed by the conferees on the part of the Senate and the House. The gentleman from Texas [Mr. Buchanan] makes the point of order that the conference report is out of order because the conferees on the part of the House in conference agreed to an amendment of the Senate providing an appropriation contrary to the rules of the House.
>
> Senate amendment no. 1 contains the following language:
>
> > The Secretary of the Treasury is authorized to advance, from time to time, to the Postmaster General, from the appropriation contained in the Supplemental Appropriation Act, fiscal year 1936, approved February 11, 1936, for "administrative expenses, adjusted-compensation payment act, 1936, Treasury Department, 1936 and 1937", such sums as are certified by the Postmaster General to be required for the expenses of the Post Office Department in connection with the handling of the bonds issued hereunder. Such bonds—
>
> This amendment also contains the following language:
>
> > The Secretary of the Treasury shall reimburse the Postmaster General, from the aforesaid appropriation contained in said supplemental appropriation act, for such postage and registry fees as may be required in connection with such transmittal.
>
> Rule XX, clause 2, of the rules of the House of Representatives, reads as follows:
>
> > No amendment of the Senate to a general appropriation bill which would be in violation of the provisions of clause 2 of rule XXI, if said amendment had originated in the House, nor any amendment of the Senate providing for an appropriation upon any bill other than a general appropriation bill, shall be agreed to by the managers on the part of the House unless specific authority to agree to such amendment shall be first given by the House by a separate vote on every such amendment.
>
> It is clear to the Chair that the managers on the part of the House in agreeing in conference to Senate

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[4] 80 CONG. REC. 7790–92, 74th Cong. 2d Sess.

amendment no. 1 violated the provisions of rule XX, inasmuch as the amendment provides an appropriation.

The Chair therefore sustains the point of order.

The Clerk will report the first amendment in disagreement.

MR. [BERTRAND H.] SNELL [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. SNELL: Mr. Speaker, if the conference report is out of order, how can we consider it?

THE SPEAKER: The amendments are before the House and must be disposed of.

MR. SNELL: I supposed that the whole report went out.

THE SPEAKER: The report goes out, but that leaves the amendments before the House, and some action must be taken on them. It is for the House to say what action it will take. . . .

MR. [CARL E.] MAPES [of Michigan] (interrupting the reading of the Senate amendment): Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state it.

MR. MAPES: Mr. Speaker, supplementing what the gentleman from New York [Mr. Snell] has said, an attempt was made to get this bill before the House by calling up the conference report and the conference report was held out of order. No further action to get the bill before the House has been taken. There has been no request to bring it up in any other way except through the conference report, and the Speaker, very properly I think, has ruled that the conference report is out of order.

THE SPEAKER: The conference report was called up by the gentleman from New York [Mr. Mead]. The conference report has been held to be out of order, which leaves the Senate amendments before the House for consideration. The House must take some action on them.

MR. MAPES: How do the amendments get before the House for consideration?

THE SPEAKER: They are called up by the gentleman from New York [Mr. Mead].

MR. MAPES: No attempt has been made by the gentleman from New York [Mr. Mead], as I understand, to call them up.

THE SPEAKER: The Chair, in answer to the gentleman from Michigan, reads from section 3257 of Cannon's Precedents:

> When a conference report is ruled out of order the bill and amendments are again before the House as when first presented, and motions relating to amendments and conference are again in order.

The Chair thinks that completely answers the gentleman from Michigan.

MR. MAPES: That seems to cover the matter.

MR. [FREDERICK R.] LEHLBACH [of New Jersey]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. LEHLBACH: Are amendments put on a House bill by the Senate privileged?

THE SPEAKER: After the stage of disagreement has been reached they are. For this reason it is necessary that the House take some action upon the amendments at this time.

§ 13.8 Where House conferees agreed to a Senate amendment providing that "benefits shall be paid from the civil service retirement and disability fund", such an agreement constituted a violation of Rule XX clause 2, and was ruled out on a point of order.

On Oct. 4, 1962,[5] a Member addressed Speaker pro tempore Carl Albert, of Oklahoma, and proceedings ensued as follows:

MR. [THOMAS J.] MURRAY [of Tennessee]: Mr. Speaker, I call up the conference report on the bill (H.R. 7927) to adjust postal rates, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from Tennessee?

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, reserving the right to object and I do so in order to make a parliamentary inquiry, I desire to make a point of order against considerations of the conference report. . . .

Mr. Speaker, I desire to make a point of order against consideration of the conference report, and I ask to be recognized at the proper time to make that point of order.

THE SPEAKER PRO TEMPORE: When the Clerk reports the title of the bill, the gentleman may be recognized.

The Clerk will report the title of the bill.

The Clerk read the title of the bill.

THE SPEAKER PRO TEMPORE: The gentleman from Iowa makes a point of order. The gentleman will state the point of order.

MR. GROSS: Mr. Speaker, I make the point of order against the conference report on the ground that it violates clause 2 of rule XX of the House rules.

Clause 2, rule XX, reads in part as follows:

> Nor any amendment of the Senate providing for an appropriation upon any bill other than a general appropriation bill shall be agreed to by the managers on the part of the House unless specific authority to agree to such amendment shall first be given by the House by a separate vote on every such amendment.

Mr. Speaker, H.R. 7927 as passed with the amendment of the Senate provides in section 1104, page 110, the following:

> Sec. 1104. Notwithstanding any other provision of law the benefits made payable under the Civil Service Retirement Act by reason of the enactment of this part shall be paid from the civil service retirement and disability fund.

The words "shall be paid from the civil service retirement and disability fund" constitute an appropriation within the meaning of clause 2 of rule XX. . . .

Inasmuch as the House, when it sent the bill to conference, did not give specific authority to agree to such amendment I, therefore, submit that it is not in order for such language to be included in the conference report. . . .

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[5] 108 CONG. REC. 22332, 22333, 87th Cong. 2d Sess.

The Speaker Pro Tempore: Does the gentleman from Tennessee [Mr. Murray] desire to be heard on the point of order?

Mr. Murray: I do not, Mr. Speaker.

The Speaker Pro Tempore: The gentleman from Iowa [Mr. Gross] makes a point of order that the language contained on page 110, section 1104, line 12, "shall be paid from the civil service retirement and disablility fund" is in violation of clause 2, rule XX.

The Chair sustains the point of order.

§ 13.9 A point of order that House conferees had violated clause 2, Rule XX by agreeing to a provision in a Senate amendment to a House legislative bill, directing the use of funds already appropriated for a new purpose, was conceded and the conference report was ruled out of order.

On Nov. 29, 1979,(6) a conference report on H.R. 2676 (EPA research authorization for appropriations, fiscal year 1980) authorizing appropriations for environmental research and development was called up for consideration. Included in the conference report was a provision originally contained in a Senate amendment, directing that funds appropriated pursuant to the authorization be obligated and expended on a certain project not specifically funded by the appropriation law.

The Chair, noting that the appropriation bill for the activity concerned had already been enacted for the year in question, ruled that the provision at that time constituted an appropriation on a legislative bill and could not, under clause 2 of Rule XX, be agreed to by House conferees. The proceedings were as follows:

Mr. [Edward P.] Boland [of Massachusetts]: Mr. Speaker, I make a point of order against the conference report.

The Speaker Pro Tempore:(7) The gentleman from Massachusetts will state the point of order.

Mr. Boland: Mr. Speaker, clause 5 of rule XXI prohibits committees without proper jurisdiction from reporting measures carrying appropriations. Interpretation of the rule has held that language reappropriating, making available, or diverting an appropriation already made for one purpose to another is not in order. This has been sustained numerous times, but it is very clearly stated in a ruling on August 11, 1921, and is a precedent that is nearly identical to the issue that is before us now.

In the paragraph authorizing appropriations for the health and ecological effects activity of the water quality research and development program House conferees on H.R. 2676 agreed to retain in the bill the following provision added by the Senate:

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(6) 125 Cong. Rec. 34113, 96th Cong. 1st Sess.

(7) Abraham Kazen, Jr. (Tex.).

> *Provided,* That of the funds appropriated pursuant to this paragraph $900,000 shall be obligated and expended on the Cold Climate Research program through the Environmental Protection Agency's Corvallis Environmental Research Laboratory, Corvallis, Oregon.

The 1980 Environmental Protection Agency budget request did not include any funding for cold climate research. The 1980 appropriation of EPA's research and development programs also did not include any funding for cold climate research.

The proviso amounts to a diversion of funds previously appropriated and violates clause 5, rule XXI.

Mr. Speaker, I urge that the point of order be sustained.

THE SPEAKER PRO TEMPORE: Does the gentleman from Florida (Mr. Fuqua) wish to speak on the point of order?

MR. [DON] FUQUA: Mr. Speaker, I concede the point of order.

THE SPEAKER PRO TEMPORE: The point of order is conceded and sustained.

In this instance, the conference report containing the Senate amendment having been ruled out of order because containing an appropriation, the manager of the conference report moved to recede and concur in the Senate amendment with an amendment merely encouraging, but not mandating, the use of funds already appropriated for a new purpose.(8)

§ 13.10 The rule restricting the authority of conferees in agreeing to appropriation language in Senate amendments does not apply to language in Senate bills.

On Jan. 25, 1972,(9) a conference report on S. 2819 (the foreign military assistance authorization) was under consideration which contained an additional provision beyond the scope of the differences committed to conference.(10) The Speaker, Carl Albert, of Oklahoma, in overruling a point of order against the report, noted that the House had adopted a resolution waiving points of order against the inclusion of such additional matter, and that clauses 2 and 3 of Rule XX (restricting the authority of House conferees from agreeing to appropriation or nongermane language, respectively, in Senate amendments) are not applicable where a Senate bill and House amendments are committed to conference. The proceedings were as indicated below:

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, I desire to make a point of order against the consideration of the conference report. . . .

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8. 125 CONG. REC. 34114, 96th Cong. 1st Sess., Nov. 29, 1979.

9. 118 CONG. REC. 1076, 1077, 92d Cong. 2d Sess.

10. Inclusion of such matter violates Rule XXVIII clause 3.

Mr. Speaker, I make a point of order on the grounds that certain provisions of the bill are not germane and exceed the authority of the conference. I point specifically, Mr. Speaker, to the language to be found on page 13 of the report, section 658:

> Sec. 658. Limitation on Use of Funds.—
>
> (a) Except as otherwise provided in this section, none of the funds appropriated to carry out the provisions of this Act or the Foreign Military Sales Act shall be obligated or expended until the Comptroller General of the United States certifies to the Congress that all funds previously appropriated and thereafter impounded during the fiscal year 1971 for programs and activities administered by or under the direction of the Department of Agriculture, the Department of Housing and Urban Development, and the Department of Health, Education and Welfare have been released for obligation and expenditure.

Mr. Speaker, I contend that this language goes far beyond the scope of the legislation, far beyond any intent of the Congress. It is neither germane nor does it come within the scope of the legislation. . . .

Mr. [Thomas E.] Morgan [of Pennsylvania]: . . . The rule is broad and covers the objections made by the gentleman from Iowa. Last November the House sent to conference two foreign aid bills, one economic and one military, which passed the Senate. At that time the House struck out all after the enacting clauses of both bills and inserted in lieu thereof the complete text of H.R. 9910, which had passed the House last August.

All the provisions of both the House and Senate bills that were in disagreement were considered in conference. The House having adopted a rule to send these two Senate bills [to conference] the amendments to which the gentleman from Iowa has objected automatically became House amendments and the provisions from the Senate bill are no longer subject to a point of order.

The Speaker: The Chair is ready to rule.

The gentleman from Iowa has raised a point of order against the conference report on the ground that the House conferees have exceeded their authority by including in the conference report provisions not germane or not in either the Senate bill or the House amendment and agreed to an appropriation in violation of clause 2, rule XX. That rule provides in relevant part:

> No amendment of the Senate . . . providing for an appropriation upon any bill other than a general appropriation bill, shall be agreed to by the managers on the part of the House.

The Chair would point out that it was a Senate bill which was sent to conference, with a House amendment thereto. The rule is restricted in its application to Senate amendments, and thus is not applicable in the present situation.

The Chair also points out that the resolution under which this conference report is being considered specifically waives points of order under clause 3, rule XXVIII.

The action of the conferees in adding the language in section 658 of the conference report is protected by this waiver of points of order.

For these reasons the Chair overrules the point of order.

§ 13.11 Clause 2 of Rule XX which precludes House conferees from agreeing to Senate amendments providing for appropriations in a conference report absent specific authority applies only to Senate amendments which are sent to conference and not to appropriations contained in Senate legislative bills.

On June 30, 1976,(11) the Speaker(12) overruled a point of order against a conference report containing a provision permitting a new use of funds in an existing revolving fund, even though such provision constituted an appropriation on a legislative bill, since the provision had been contained in the Senate bill and since clause 2 of Rule XX is not applicable where a Senate bill and House amendments are committed to conference. The proceedings were as follows:

MR. [HENRY S.] REUSS [of Wisconsin]: Mr. Speaker, I call up the conference report on the Senate bill (S. 3295) to extend the authorization for annual contributions under the U.S. Housing Act of 1937, to extend certain housing programs under the National Housing Act, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report. . . .

MR. [GARRY] BROWN [of Michigan]: Mr. Speaker, I make a point of order against the conference report on S. 3295 on the basis that the House managers exceeded their authority by agreeing to two matters not in the original House amendment to the Senate bill and which violates clause 2, rule XX, of the House Rules and Precedents of the House. Clause 2, rule XX, reads in part as follows:

> Nor any amendment of the Senate providing for an appropriation upon any bill other than a general appropriation bill shall be agreed to by the managers on the part of the House unless specific authority to agree to such amendment shall first be given by the House by a separate vote on every such amendment.

The Senate-passed bill contains section 9(a)(2) and 9(b) which in effect provide for expenditures to be made from the various FHA insurance funds to honor claims made eligible for payment by the provisions of section 9 generally. These amendments are to section 518(b) of the National Housing Act and relate to sections 203 and 221 housing programs for which the authority of the Secretary of HUD to pay claims related to certain structural defects has expired if the claims were not filed by March 1976.

Both sections 9(a)(2) and 9(b) include identical language which states as follows:

> Expenditures pursuant to this subsection shall be made from the insurance fund chargeable for insurance benefits on the mortgage covering

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(11) 122 CONG. REC. 21632, 21633, 94th Cong. 2d Sess.

(12) Carl Albert (Okla.).

the structure to which the expenditures relate.

The words "Expenditures pursuant to this subsection shall be made from the insurance fund" constitute an appropriation within the meaning of clause 2, rule XX. Based on precedents under clause 5, rule XXI, it is clear that payments out of funds such as the FHA insurance fund are within the meaning of the term "appropriation" and that the action taken by the House managers is violative of clause 2, rule XX.

In support of this point of order, I cite the ruling of the Chair on a point of order raised by H. R. Gross on October 1, 1962, to the conference report on H.R. 7927. A Senate provision agreed to in that report provided that—

> The benefits made payable . . . by reason of enactment of this part shall be paid from the civil service retirement and disability fund.

Inasmuch as when the House agreed to go to conference, it did not give specific authority to agree to such an amendment. I therefore submit that it is not in order for such language to be included in the conference report.

The FHA insurance funds are designed to provide the reserves for payments on defaulted mortgages and for the operation of HUD related to the various insurance programs and any diversion of the use of such funds such as for payment for defects in the structure would violate clause 5 of rule XXI. In further support of this point of order, and specifically on the point that the provisions constitute a diversion of funds for a separate purpose not within the intention of the legislation establishing the fund, I cite the ruling of the Chair on October 5, 1972, which holds that an amendment allowing for the use of highway trust fund moneys to purchase buses,

> would seem to violate clause 4 of rule XXI in that it would divert or actually reappropriate for a new purpose funds which have been appropriated and allocated and are in the pipeline for purposes specified by the law under the original 1956 act.

I say, Mr. Speaker, I make a point of order against the conference report on this basis.

I would note, Mr. Speaker, that the gentleman from Oklahoma is the one who sustained the point of order raised by Mr. Gross in the case which I have referred to.

Mr. Speaker, I am inclined to anticipate a ruling against my point of order, but if that should be the case, Mr. Speaker, I suggest we are making a mockery of the rules of the House.

Since some of my comrades may not be aware of it, the rules of the House in clause 5, rule XXI, provide:

> No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations, nor shall an amendment proposing an appropriation be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. . . .

Mr. Speaker, that is a rule of the House. Now, since the House in its rules cannot have extraterritorial effect or extra body effect, in order to protect the House from having its rules violated by the Senate, we adopted clause 2 of rule XX which related to action that the Senate might take that would be violative of the

House rules. But the very fact that this is not a Senate amendment on a House bill is insignificant if the rules of the House are going to have any real meaning because what we are saying is any time we want to violate the House rules, we can have the rule provide that after consideration of the bill it shall be in order for the such-and-such Senate bill to be taken from the Speaker's desk and everything after the enacting clause stricken and apply the House language. . . .

MR. [THOMAS L.] ASHLEY [of Ohio]: . . . Mr. Speaker, clause 2 of rule XX of the rules of the House makes out of order any provision in a Senate amendment which provides for an appropriation. However, the rule does not address itself to provisions in Senate bills. The conferees accepted the provision in question, without change, from a Senate bill and not from a Senate amendment. Therefore, no violation of the House rules is involved even if the provision is considered to be an appropriation.

THE SPEAKER: The Chair is ready to rule.

The gentleman from Michigan has made a point of order against the conference report, referring to the language of rule XX, clause 2, which places certain restrictions on the managers on the part of the House in a conference with the Senate.

The Chair has ruled on this matter before.

On January 25, 1972, the Chair ruled in connection with a point of order made by the gentleman from Iowa (Mr. Gross) against the conference report on a foreign military assistance authorization bill (S. 2819) on the ground that the House conferees had exceeded their authority by including in the conference report an appropriation entirely in conflict with clause 2, rule XX. That rule provides, in relevant part, that "no amendment of the Senate"—that is the important language—no amendment of the Senate providing for an appropriation upon any bill other than a general appropriation bill, shall be agreed to by the managers on the part of the House.

The Chair would point out that it was a Senate bill which was sent to conference with a House amendment thereto. The rule is restricted in its application to Senate amendments and, thus, is not applicable in the present situation.

The Chair, therefore, overrules the point of order.

After the above ruling, Mr. Brown pointed to the following language in the conference report as representing, in effect, an agreement by the Senate "with a Senate amendment":

> That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment.

The Speaker responded that a conference report on a Senate bill which recommends that the Senate concur in the House amendment with an amendment does not place before the House a Senate amendment against which a point of order can be raised under clause 2 of Rule XX, since the conference report represents only a proposed compromise and not a Senate amendment originally committed to conference.(13)

§ 13.12 Although Rule XXI clause 5 permits a point of order against an appropriation in a legislative bill or amendment to be raised "at any time" during the initial consideration of the bill or amendment under the five-minute rule in the House, a point of order against similar language permitted to remain in the House version and included in a conference report on that bill will not lie, since the only rule prohibiting such inclusion (Rule XX clause 2) is limited to language originally contained in a Senate amendment where House conferees have not been specifically authorized to agree thereto.

The following proceedings took place on May 1, 1975,(14) during consideration of a conference report, as indicated below:

Mr. [Thomas E.] Morgan [of Pennsylvania]: Mr. Speaker, I call up the conference report on the bill (H.R. 6096) to authorize funds for humanitarian assistance and evacuation programs in Vietnam and to clarify restrictions on the availability of funds for the use of U.S. Armed Forces in Indochina, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report. . . .

Ms. [Elizabeth] Holtzman [of New York]: Mr. Speaker, I would like to make a point of order against the conference report.

The Speaker [Carl Albert, of Oklahoma]: The gentlewoman will state it.

Ms. Holtzman: Mr. Speaker, section 7 of the conference report in the last sentence refers to evacuation programs authorized by this act. It permits a waiver of a series of laws for the purpose of allowing those evacuation programs to take place.

In the House bill (H.R. 6096), section 3 dealt with evacuation programs referred to in section 2 of the bill and waived the same series of laws with respect thereto. In order for section 3 to be considered, it required a rule from the Rules Committee. And a rule was granted waiving points of order against section 3 of the bill. But section 7 of the conference report, in speaking of evacuation programs authorized by the entire act and not just by one section, exceeds the scope of section 3 of the bill and exceeds the waiver that was permitted under the rule. It therefore violates rule XXI, clause 5, and violates rule XX, clause 2, which prohibits House conferees from accepting a Senate amendment providing for an appropriation on a nonappropriation bill in excess of the rules of the House. . . .

Mr. Morgan: . . . The point of order has no standing. Section 3 of the House bill and section 7 of the conference report referred to use of funds of

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13. 122 Cong. Rec. 21634, 94th Cong. 2d Sess., June 30, 1976.

14. 121 Cong. Rec. 12752, 12753, 94th Cong. 1st Sess.

the Armed Forces of the United States for the protection and evacuation of certain persons from South Vietnam. The language of the conference report does not increase funds available for that purpose. Both the House bill and the conference report simply removed limitations on the use of funds from the DOD budget. These limitations were not applicable to the funds authorized in H.R. 6096. The scope of the waiver is the same in the conference report and the House bill.

Mr. Speaker, the changes in language are merely conforming changes. Section 2 of the House bill was a section which authorized the evacuation programs in the House bill. The conference version contains the evacuation programs authority in several section plus reference to the entire act rather than to one specific section. . . .

The Speaker: The Chair is ready to rule.

The gentlewoman from New York makes the point of order that section 7 of the conference report constitutes an appropriation on a legislative bill in violation of clause 5, rule XXI, to which the House conferees were not authorized to agree pursuant to clause 2, rule XX.

The Chair would first point out that the provisions of clause 2, rule XX, preclude House conferees from agreeing to a Senate amendment containing an appropriation on a legislative bill, and do not restrict their authority to consider an appropriation which might have been contained in the House-passed version. In this instance, the conferees have recommended language which is virtually identical to section 3 of the House bill, and they have not agreed to a Senate amendment containing an appropriation. Therefore, clause 2, rule XX, is not applicable to the present conference report.

While clause 5, rule XXI, permits a point of order to be raised against an appropriation in a legislative bill "at any time" consistent with the orderly consideration of the bill to which applied—Cannon's VII, sections 2138-39—the Chair must point out that H.R. 6096 was considered in the House under the terms of House Resolution 409 which waived points of order against section 3 of the House bill as constituting an appropriation of available funds for a new purpose. . . .

The gentlewoman from New York also has in effect made the point of order that section 7 of the conference report goes beyond the issues in difference between the two Houses committed to conference in violation of clause 3, rule XXVIII.

In the House-passed bill, section 3 contained waivers of certain provisions of law in order to make available funds already appropriated to the Department of Defense to be used for the Armed Forces in "evacuation programs referred to in section 2 of the act." The conferees have recommended that the same waivers of law shall apply to "evacuation programs authorized by this act."

In the opinion of the Chair, a conforming change in phraseology in a conference report from language contained in the House or Senate version to achieve consistency in the language thereof, absent proof that the effect of that change is to broaden the scope of the language beyond that contained in either version, does not necessarily render the conference report subject to a point of order. In this instance, it appears to the Chair that the only effect of the language in the conference report was to accomplish the same result that would have been reached by section 3 of the House bill, namely to remove certain limitations on the use of funds in the Defense budget for military evacuation programs under this bill.

The Chair therefore holds that the conferees have not exceeded their authority and overrules the point of order.

Amendments to Senate Amendments

§ 13.13 Where a Senate amendment on a general appropriation bill proposes an expenditure not authorized by law, it is in order in the House to perfect such Senate amendment by germane amendments.

The following proceedings took place on Feb. 8, 1937,[15] during consideration of H.R. 3587, a deficiency appropriations bill:

Mr. [Clifton A.] Woodrum [of Virginia]: Mr. Speaker, I move to recede and concur in the Senate amendment with an amendment, which I send to the Clerk's desk. . . .

Mr. [Henry] Ellenbogen [of Pennsylvania]: Mr. Speaker, I offer a preferential motion, which I send to the Clerk's desk.

The Clerk read as follows:

> Mr. Ellenbogen moves that the House recede and concur in Senate amendment no. 9.

Mr. Woodrum: Mr. Speaker, I ask for a division of the question.

The Speaker Pro Tempore:[16] The gentleman from Virginia demands a division of the question. The question is, Shall the House recede from its disagreement to the Senate amendment?

The question was taken, and the motion to recede was agreed to.

Mr. Woodrum: Mr. Speaker, I move to concur in the Senate amendment with an amendment, which I send to the Clerk's desk.

The Clerk read as follows:

> Mr. Woodrum moves that the House concur in the Senate amendment with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "or of any appropriation or other funds of any executive department or independent executive agency shall be used after June 30, 1937, to pay the compensation of any person detailed or loaned for service in connection with any investigation or inquiry undertaken by any committee of either House of Congress under special resolution thereof."

Mr. Ellenbogen: Mr. Speaker, I make the point of order that the motion of the gentleman from Virginia violates the rules of the House in that it is legislation on an appropriation bill.

The Speaker Pro Tempore: The Chair will state that the Senate amendment is legislation, and the amendment to that amendment offered by the gentleman from Virginia is not out of order because it contains legislation. The Chair therefore overrules the point of order.

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[15] 81 Cong. Rec. 975, 976, 75th Cong. 1st Sess.

[16] John J. O'Connor (N.Y.).

Mr. [Thomas] O'Malley [of Wisconsin]: Mr. Speaker, a point of order.

The Speaker Pro Tempore: The gentleman will state it.

Mr. O'Malley: Mr. Speaker, I make the point of order that the amendment of the gentleman from Virginia is not germane, since it limits the Senate amendment by date.

The Speaker Pro Tempore: The Chair will state that it deals with the same subject matter, and the mere limitation of the Senate amendment by date does not destroy its germaneness, and the Chair therefore overrules the point of order.

§ 13.14 Where the Senate attaches to an appropriation bill a legislative amendment, it is in order in the House to concur with a perfecting amendment provided such amendment does not broaden the scope of the legislation in the Senate amendment.

On June 15, 1933,(17) during consideration of Senate amendments to the independent offices appropriation bill,(18) the following proceedings took place:

The Clerk read as follows:

> Amendment no. 30: On page 57, after line 14, insert:
>
> "Sec. 6. After the enactment of this act the Postmaster General is directed to suspend payments upon any air mail or ocean mail contract to any individuals, companies, or corporations which, singly or in combination with other individuals, companies, or corporations receiving a subsidy, pay any salary or salary combined with bonus to any officer, agent, or employee in excess of a salary of $17,500. . . ."

Mr. [Clifton A.] Woodrum [of Virginia]: Mr. Speaker, I move to recede and concur with an amendment, which I send to the desk.

The Clerk read as follows:

> Mr. Woodrum moves that the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:
>
> "Sec. 6. Hereafter the Postmaster General shall not award any air mail contract or any ocean mail contract under the Merchant Marine Act of 1928 to any individuals, companies, or corporations which, singly or in combination with other individuals, companies, or corporations pay any salary, or salary combined with bonus, to any officer, agent, or employee in excess of $17,500. . . ."

Mr. [Edward W.] Goss [of Connecticut]: Mr. Speaker, a point of order.

The amendment as I heard it read contains the word "hereafter", making this permanent law, forever. I have no particular objection to the language contained, that makes it for the duration of the life of this appropriation bill, but it might not be wise, under certain circumstances, to make it permanent, forever. The word "hereafter" makes it legislation on an appropriation bill, which makes it permanent legislation.

Mr. Woodrum: The original text makes it permanent legislation.

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17. 77 Cong. Rec. 6150, 73d Cong. 1st Sess.
18. H.R. 5389.

MR. GOSS: But it reads "after the enactment of this act."

THE SPEAKER:(19) We are considering the Senate amendment. The entire amendment of the Senate is legislation which the House may now perfect by any germane amendment.

MR. GOSS: I will reserve it for the moment, to hear further explanation. I do not want to see it made permanent law.

MR. WOODRUM: The only change which the House makes in it is the very proper change not to undertake to make this retroactive to apply to contracts. They have postoffice contracts that have already been made in good faith, but it does provide——

MR. GOSS: For all time.

MR. WOODRUM: Yes; until Congress changes it, because the original language was for all time. . . .

THE SPEAKER: The Chair overrules the point of order made by the gentleman from Connecticut.

§ 13.15 In amending a Senate amendment the House is not confined within the limits of the amount set by the original bill and the Senate amendment.

On June 20, 1932,(20) during consideration of H.R. 11267, the Economy Committee amendment to the legislative appropriation bill, a Senate amendment was under consideration which provided for an 11 percent reduction in all government salaries in excess of $2,500. An amendment was offered proposing to reduce salaries by a graduated scale with a minimum exemption of $1,200. A point of order was made as follows, and proceedings ensued as indicated below:

MR. [FIORELLO H.] LAGUARDIA [of New York]: Mr. Speaker, I make the point of order that the subject matter contained in the gentleman's motion at this time is not proper in that there is nothing before the House at this time which shows a change of attitude on the part of the House in its action on the question of salary reduction. There are two propositions before the House. One is the House bill providing for a reduction with a $2,500 exemption, and the other is the Senate so-called furlough plan. The gentleman seeks to concur in the Senate plan with an amendment, and the matter in the amendment is not germane to that plan. The gentleman's motion is beyond the province of conferees. The subject matter contained in the motion is an entirely new proposition. If conferees have failed to agree on either the House bill or Senate bill, then they should be discharged. If the gentleman seeks to carry out a reduction plan, then I submit that the House has not indicated by vote or otherwise that it recedes from its original position. What the gentleman is seeking to do is to get legislative action de novo on a matter which has already been passed on by the House. When we come to that point—enter on our own initiative or from the Senate—new conferees representing the views of the House

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19. Henry T. Rainey (Ill.).

20. 75 CONG. REC. 13522-25, 72d Cong. 1st Sess.

should be and would be appointed. I repeat, Mr. Speaker, that the view of the House must first be presented by friends of the proposition to the Senate conferees. There is no indication in the report or otherwise that the House bill was actually sponsored in conference by the conferees on the part of the House, and I submit that at this stage we can not legislate de novo in order to carry out the personal views or preference of the conferees. The House should at least be given the opportunity to express itself on its own bill. In this roundabout method the House is compelled to take other action without first knowing what the attitude of the other body on the proposition may be.

Mr. [John C.] Schafer [of Wisconsin]: Mr. Speaker, I believe the Chair should hold that the amendment offered by the gentleman from Alabama is out of order, because the amendment goes beyond the range of difference between the action of the House and the Senate. The furlough plan incorporated in the bill by the Senate and the salary-reduction plan as passed by the House contain no salary reductions in salaries below $2,500 per year. I believe on that point alone the amendment is not germane, and therefore it is not in order, as the conferees have exceeded their authority.

Mr. [John] McDuffie [of Alabama]: Mr. Speaker, I think the Chair has ample precedent for overruling the point of order raised by the gentleman from Wisconsin, because, in the first place we are not dealing with a conference report, and in the second place, I direct the attention of the Speaker to the fact that anything that is germane is permissible to be written in an amendment such as I have offered.

The Speaker Pro Tempore [William B. Bankhead, of Alabama]: The Chair is ready to rule.

The gentleman from New York [Mr. LaGuardia] interposes a point of order against the amendment offered by the gentleman from Alabama [Mr. McDuffie] to the Senate proposal, upon the ground that it does not affirmatively appear that the House conferees really took into consideration the action and voice of the House in the conference. That, of course, is a matter entirely beyond the province of the Chair, and is a matter of speculation, necessarily. The Chair, therefore, overrules that point of order.

The gentleman from Wisconsin [Mr. Schafer] raised the point of order that the provisions embodied in the motion of the gentleman from Alabama to recede and concur with an amendment to the Senate amendment was beyond the limits fixed in either the House bill or the Senate amendment. The Parliamentarian has furnished the Chair with a syllabus of an opinion by Chairman Hepburn, of Iowa, made on February 26, 1902, which may be found in Hinds' Precedents (vol. 5, sec. 6187). It is as follows: "In amending a Senate amendment the House is not confined within the limits of amount set by the original bill and the Senate amendment." The Chair thinks that that decision disposes of the point of order raised by the gentleman from Wisconsin. The Chair desires to say in passing upon these points of order that in cases of this kind the only requirement is that the amendment proposed in the motion to recede and concur with an amendment must be germane to the Senate amendment. This question arose on May 3, 1922, when Mr. Speaker Gillett, in overruling a point of order similar to this, held that to a Senate amendment providing a new method of taxation in the District of Columbia and revising the fiscal relationship of the District of Columbia and the United States with other incidental propositions an amendment proposing a different scheme is germane, although different in detail.

The Chair thinks that these decisions fully cover points of order raised by the gentleman from New York and the gentleman from Wisconsin, and therefore overrules the points of order.

Similarly, on June 28, 1932,(1) the following proceedings took place during consideration of the Navy appropriation bill:(2)

The Speaker:(3) The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

> Amendment No. 16: Page 23, line 17, strike out "$1,014,250" and insert in lieu thereof "$1,191,850."

Mr. [William A.] Ayres [of Kansas]: Mr. Speaker, I move that the House recede and concur with an amendment.

The Clerk read as follows:

> Mr. Ayres moves to recede and concur in Senate amendment No. 16 with the following amendment: In lieu of the sum proposed by said amendment insert the following: "$1,157,535 (none of which shall be available for increased pay for making aerial flights by nonflying officers or observers except eight officers above the grade of lieutenant commander, to be selected by the Secretary of the Navy)."

Mr. LaGuardia: I make the point of order that the amendment offered by the gentleman from Kansas is beyond the power and scope of the conferees; that it brings in entirely new matter, that the difference between the Senate bill and the House bill is simply one of amount, and we can not at this stage of the proceedings legislate on the bill.

The Speaker: On the grounds the gentleman makes his point of order the Chair will overrule it. The question is on the motion to concur with an amendment.

The motion was agreed to.

The Speaker: Let the Chair say in connection with that point of order that if the gentleman from New York had made the point of order that the proposed amendment was not germane to the Senate amendment, the Chair thinks it would have been sufficient, but the gentleman from New York said it was beyond the jurisdiction of the conferees, and the motion to concur with an amendment is not subject to that point of order.

Point of Order Against Appropriations in Senate Bill

§ 13.16 A point of order under the rule barring appropriations in a legislative bill may be raised against an item of appropriation in a Senate bill.

On July 30, 1957,(4) during consideration of S. 1865, a bill estab-

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1. *Id.* at pp. 14207, 14208.
2. H.R. 11452.
3. John N. Garner (Tex.).
4. 103 Cong. Rec. 13056, 85th Cong. 1st Sess.

lishing an airways modernization board and to provide for the development and modernization of the national system of navigation and traffic control facilities to serve present and future needs of civil and military aviation, a provision granting authority to transfer "unexpended balances of appropriations, allocations, and other funds available," was ruled out by Chairman George H. Mahon, of Texas, as an appropriation reported from a nonappropriating committee in violation of clause 4, rule XXI.

The language having been stricken from the Senate bill pursuant to the point of order, that fact was reported by Chairman Mahon to the House.(5) The language stricken from the bill on the point of order was treated as an amendment of the Senate bill and so engrossed and messaged to the Senate.

Special Rule Waiving Points of Order

§ 13.17 A resolution is set forth below waiving points of order against a conference report on a general appropriation bill, and making in order a motion to recede from disagreement and to concur therein with an amendment.

On Dec. 23, 1963,(6) the following proceedings took place:

> Mr. [Howard W.] Smith of Virginia: Mr. Speaker, I present a privileged resolution (H. Res 600) from the Committee on Rules and ask for its immediate consideration.
>
> The Clerk read the title of the resolution.
>
> The Speaker:(7) The resolution will be referred to the House Calendar and ordered to be printed.
>
> The resolution is as follows:
>
> *Resolved,* That upon the adoption of this resolution it shall be in order to consider without the intervention of any point of order the conference report on the bill (H.R. 9499) making appropriations for foreign aid and related agencies for the fiscal year ending June 30, 1964, and for other purposes, and that during the consideration of the amendment of the Senate numbered 20 to the bill, it shall be in order to consider, without the intervention of any point of order, a motion by the Chairman of the Managers on the part of the House to recede and concur in said Senate amendment numbered 20 with an amendment.

Suspension of Rules for Matters Not in Disagreement

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5. *Id.* at pp. 13181, 13182, July 31, 1957.

6. 109 Cong. Rec. 25495, 88th Cong. 1st Sess.

Note: The waiver of points of order against the amendment was necessary because the language of the amendment would have been subject to the point of order that it constituted further legislation on an appropriation bill.

7. John W. McCormack (Mass.).

§ 13.18 The two Houses having been unable to agree on all provisions of the bill, the House, under a motion to suspend the rules, passed a new bill containing matters in the original bill not in controversy.

On July 2, 1942,(8) the Department of Agriculture appropriation bill for fiscal 1943 was passed in the House in the following manner:

Mr. [Malcolm C.] Tarver [of Georgia]: Mr. Speaker, I move to suspend the rules and pass the bill H.R. 7349, which I send to the Clerk's desk.

The Clerk read as follows:

> A bill making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1943, and for other purposes.

The Speaker:(9) Is a second demanded?

Mr. [Everett M.] Dirksen [of Illinois]: Mr. Speaker, I demand a second.

Mr. Tarver: Mr. Speaker, I ask unanimous consent that a second be considered as ordered.

The Speaker: Is there objection to the request of the gentleman from Georgia [Mr. Tarver]?

There was no objection.

Mr. Tarver: Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, this is a proposal to enact for the present fiscal year 1943, the provisions of H.R. 6709, the Agricultural appropriation bill, insofar as those provisions have been agreed upon by the House and the Senate, and with respect to the appropriations for the farm tenant land purchase program and for the Farm Security Administration, which are in disagreement, the provisions of the bill are for expenditures by the Farm Security Administration for these purposes for the next 60 days; that is, for the months of July and August, which will be authorized upon the same bases proportionate for the time involved as the expenditures for those purposes were authorized in the Agricultural Appropriation Act for the fiscal year 1942, with the proviso that any amount expended by the Farm Security Administration for these purposes during the months of July and August shall be charged against whatever amounts are finally appropriated by the Congress to the uses of the Farm Security Administration for these objectives.

As I said, all of the provisions of the bill, and all of the limitations in the bill so far as there does not exist disagreement between the House and Senate with reference thereto, are proposed to be enacted. The proviso with regard to Commodity Credit Corporation funds is to be enacted except as the Senate amendments thereto in disagreement are involved.

There is also a further proviso in title II of the bill which I have just sent to the Clerk's desk, which would validate expenditures upon the bases which I have described to and including the 1st day of July.

H.R. 7349 passed in the House. Subsequently, various Members discussed the consequences of the

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8. 88 Cong. Rec. 5953, 5954, 5960, 5961, 77th Cong. 2d Sess.
9. Sam Rayburn (Tex.).

bill's passage. Some of the remarks are as follows:

Mr. Dirksen: Mr. Speaker, may I inquire whether or not the majority leader wants to say anything about the situation that is now in abeyance for the information of the House?

Mr. [John W.] McCormack [of Massachusetts]: I have nothing to advise the House about at this time. The Senate has adjourned, and I have been informed that they sent the bill which passed the House a short time ago to the committee.

Mr. Dirksen: Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

The Speaker: Is there objection?

Mr. [Earl C.] Michener [of Michigan]: Mr. Speaker, reserving the right to object, as I understand the parliamentary situation, as far as the appropriation bill is concerned, it is this. The House passed the regular Department of Agriculture appropriation bill. It went to the Senate. The Senate placed amendments. The two Houses were in disagreement and conferees were appointed. That appropriation bill is in conference. This afternoon certain members of the Appropriations Committee who happened to be the conferees on the agriculture bill brought in another and different appropriation bill.(10) It was passed under suspension of the rules, with a new number. It had no connection with the bill in conference. It was an independent bill. After that bill passed the House and went to the Senate, the Senate recognized it as a new appropriation bill, which it is, and treated it according to the rules of the Senate, and referred it to the Appropriations Committee of the Senate for consideration. The Senate conferees had no part in framing the new bill. So that today the regular agriculture appropriation bill is in conference between the two Houses. Today's House action has had no effect on the conference committee. Another appropriation bill covering much of the same matter has been referred to the Senate Committee on Appropriations.

Mr. McCormack: I think the gentleman's statement fairly presents the picture except—I would not want to take issue—but I would want to enlarge or express my own views on one observation which the gentleman made—that it had no relationship to the bill in conference. It at least had an attempted relationship.

Mr. Michener: Yes; the two bills deal with the same subject matter, but one bill was the legitimate child of the rules of the House and the Appropriations Committee. The other bill was not.

Mr. McCormack: I am not taking issue with my friend, but I will certainly say there was an attempted relationship. At least the House in its own way attempted to meet the legislative situation that exists.

Amendment by Concurrent Resolution

§ 13.19 Items in an appropriation bill not in disagreement between the two Houses, and hence not committed to the conferees, have been changed through consideration by unan-

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(10) H.R. 7349.

imous consent of a concurrent resolution directing the changes in the enrollment of the bill.

On July 23, 1962,(11) the following proceedings took place:

MR. [ALBERT] THOMAS [of Texas]: Mr. Speaker, pursuant to the unanimous agreement of last Friday, I call up for consideration a House concurrent resolution.

The Clerk read as follows:

H. CON. RES. 505

Resolved by the House of Representatives (the Senate concurring), That the Clerk of the House of Representatives be authorized and directed in the enrollment of the bill H.R. 11038 to make the following changes in the engrossed House bill:

(1) Page 2, strike out lines 13 to 16, inclusive. . . .

(28) Page 14, strike out lines 4 to 7, inclusive.

(29) Page 14, strike out lines 17 to 21, inclusive.

MR. THOMAS (interrupting reading of the House concurrent resolution): Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with, I shall attempt to explain what it is.

THE SPEAKER:(12) Is there objection to the request of the gentleman from Texas?

There was no objection.

MR. THOMAS: Mr. Speaker, it will be recalled this deals with what we call the second supplemental appropriation bill for 1962. When the supplemental left the House it had 55 items carrying about $447 million, which was a reduction, in round figures, of $100 million under the budget, a reduction of about 20 percent.

It went to the other body and that body added some 29 items, increasing the amount over the House by $112 million, which made a round figure of about $560 million.

We bring to you two items, one a concurrent resolution and the other a conference report. First, why the concurrent resolution? We put in the concurrent resolution some 29 items which were originally in the supplemental, but those 29 items are a reduction—follow me now—below the figure that was in the supplemental when it left the House and the figure when it left the Senate.

It is a complete reduction and a change. It is in the concurrent resolution because it could not be in the conference report, and the reason it could not be in the conference report is because it is a reduction in those amounts. . . .

THE SPEAKER: The question is on the resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.(13)

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(11) 108 CONG. REC. 14400–03, 87th Cong. 2d Sess.

(12) John W. McCormack (Mass.).

(13) *Parliamentarian's Note:* The second supplemental appropriation bill, H.R. 11038, was passed by the House on Mar. 30, 1962; by the Senate, amended, on Apr. 6. The conference report was not filed until July 20. Since fiscal year 1962 expired on June 30, the need for some of the funds in the bill had dissipated. To eliminate the sums no longer required and not in disagreement, the concurrent resolution was agreed to.